NOMINATION AND ELECTION OF PRESIDENT AND VICE PRESIDENT

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

EIGHTY-THIRD CONGRESS

FIRST SESSION

ON

S. J. Res. 8

PROPOSING AN AMENDMENT TO THE CONSTITUTION RELATING TO THE NOMINATION AND ELECTION OF CANDIDATES FOR PRESIDENT AND VICE PRESIDENT, AND TO SUCCESSION TO THE OFFICE OF PRESIDENT IN THE EVENT OF THE DEATH OF THE PRESIDENT

S. J. Res. 17

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES PROVIDING FOR NOMINATION OF CANDIDATES FOR PRESIDENT AND VICE PRESIDENT BY PRIMARY ELECTIONS

S. J. Res. 19

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES PROVIDING FOR THE ELECTION OF PRESIDENT AND VICE PRESIDENT

S. J. Res. 55

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PROPOSING AN AMENDMENT TO THE CONSTITUTION RELATING TO THE NOMINATION AND ELECTION OF CANDIDATES FOR PRESIDENT AND VICE PRESIDENT, AND TO SUCCESSION TO THE OFFICE OF PRESIDENT IN THE EVENT OF THE DEATH OR INABILITY OF THE PRESIDENT

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JUNE 11, JULY 13, 15, AUGUST 1, 1953

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NOMINATION AND ELECTION OF PRESIDENT AND VICE PRESIDENT

THURSDAY, JUNE 11, 1953

UNITED STATES SENATE,
SUBCOMMITTEE OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to call, at 10:05 a. m., in room 424, Senate Office Building, Senator William Langer, chairman, presiding.

Present: Senators Langer (chairman), Kilgore, and Kefauver.

Present also: Wayne H. Smithey, subcommittee counsel, and James L. Miller, professional staff member.

The CHAIRMAN. We will proceed in the matter of the constitutional amendment for the direct election of President and Vice President by popular vote.

We are delighted to have Senator Kefauver, a member of the subcommittee, here with us.

Mr. SMITHEY. Senator Kefauver desires to appear on Senate Joint Resolution 17 and Senate Joint Resolution 19.

May we introduce those two resolutions into the record as well as Senate Joint Resolution 85, Senate Joint Resolution 55, and Senate Joint Resolution 8?

The CHAIRMAN. Yes.

(The resolutions referred to follow:)

[S. J. Res. 8, 83d Cong., 1st Sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution relating to the nomination and election of candidates for President and Vice President, and to succession to the Office of President in the event of the death or inability of the President

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as provided in this article.

"The President and Vice President shall be elected by the people of the several States. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. The places and manner of holding such election shall be prescribed in each State by the legislature thereof. Congress shall determine the time of such election, which shall be the same throughout the United States.

"Within forty-five days after such election, or at such time as the Congress shall direct, the official custodian of the election returns of each State shall make

distinct lists of all persons for whom votes were cast for President, and of all persons for whom votes were cast for Vice President, and the number of votes for each, which lists he shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. On the 6th day of January following the election, unless the Congress by law appoints a different day not earlier than the 4th day of January and not later than the 10th day of January, the President of the Senate shall in the presence of the Senate and House of Representatives open all the certificates and the votes shall then be counted. Each State shall be entitled to a number of electoral votes equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress. Each person for whom votes were cast for President in any State shall be credited with such proportion of the electoral votes thereof as he received of the total vote of the electors therein for President. In making the computations, fractional numbers less than one one-thousandth shall be disregarded. The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. The person having the greatest number of votes for Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

"SEC. 2. The nominees of each political party for election as President and Vice President shall be nominated in primary elections held in the several States as provided by this section. The Congress shall by law prescribe the time (which shall be the same throughout the United States), places, and manner of holding such primary elections. The voters in such primary elections in each State shall have the qualifications requisite for electors of the most numerous branch of the legislature of such State. Any such voter shall be eligible to vote only in the primary of the political party of his registered affiliation. No person shall be a candidate for nomination except in the primary of the political party of his registered affiliation, and the name of each such candidate shall appear on the ballot of that party in all of the States. A political party shall be recognized as such for the purposes of any primary election held pursuant to this article if at any time within four years preceding such election the number of its registered members shall have exceeded 10 per centum of the total number of registered voters in the United States.

"Within fifteen days after any such primary, or at such time as the Congress shall direct, the official custodian of the election returns of each State shall make separate lists of all persons for whom votes were cast as nominee for President and the number of votes for each, which lists he shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Speaker of the House of Representatives, open all certificates, and the votes shall then be counted.

"Each political party in each State shall be entitled to a number of nominating votes equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress. Each person for whom votes were cast as nominee for President in any State shall be credited with such proportion of his party's nominating votes in such State as he receives of the total popular vote of his party therein for President. In making the computation fractional numbers less than one-thousandth shall be disregarded unless a more detailed calculation would change the result of the election. The person having a majority of the nominating votes as nominee for President in the case of each party shall be the nominee of that party for President. If in any political party no person receives a majority of the nominating votes as nominee for President, then a second primary for that political party shall be held and the names of the two persons seeking the presidential nomination of that party who have received the greatest number of nominating votes in the first primary shall appear

on the second primary ballot, and the one person receiving the greater number of nominating votes in the second primary shall be the nominee of that political party for President.

"Nominees for Vice President shall be elected at the same time and in the same manner and subject to the same provisions as the nominees for President.

"In the event of the death or resignation, prior to the election, of the nominee of any political party for President or Vice President, the national committee of such party shall designate a successor, but in choosing such successor the vote shall be taken by States, the delegation from each State having one vote. A quorum for such purpose shall consist of a delegate or delegates from two-thirds of the States, and a majority of all States shall be necessary to a choice.

"SEC. 3. Whenever the powers and duties of the office of President shall devolve upon the Vice President or upon one of the persons designated by the Congress to act as President in the absence of a Vice President, and the date of the next general election for Senators and Representatives in Congress to be held more than ninety days after such powers and duties shall have so devolved is at least two years prior to the date on which the next regular quadrennial election for President is to be held, a special election shall be held in the several States for the purpose of choosing a President and Vice President. Such special election shall be held at the time of the next general election for Senators and Representatives in Congress, and, except as provided in this section, candidates for such special election shall be nominated and elected in the same manner as in the case of regular elections. The lists required by the first section of this Article to be transmitted to the seat of the Government shall be transmitted within ten days after the election and shall be opened and the votes counted on the fifteenth day following such election. A President and Vice President elected at a special election held pursuant to this section shall take office on the fifth day following the day on which the result of such election shall have been determined and shall hold office until the expiration of the term of the President and Vice President last elected.

"SEC. 4. Paragraphs 1, 2, and 3 of section 1, article II, of the Constitution, and the twelfth article of amendment to the Constitution, are hereby repealed.

"SEC. 5. This article shall take effect two years following its ratification.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the States within seven years from the date of its submission to the States by the Congress."

[S. J. Res. 17, 83d Cong., 1st Sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States providing for nominations of candidates for President and Vice President by primary elections

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several States:

"ARTICLE —

"SECTION 1. The Congress shall have power to provide for nomination of candidates for President and Vice President by primary elections to be held in each State, the District of Columbia, and the Territories, and to make all laws which shall be necessary and proper for carrying into execution this provision.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission."

[S. J. Res. 55, 83d Cong., 1st Sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States providing for the election of President and Vice President

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That an amendment is hereby proposed to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution when

ratified by three-fourts of the legislatures of the several States. Said amendment shall be as follows:

"ARTICLE —

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice President, chosen for the same term, be elected as provided in this Constitution.

"The electoral college system of electing the President and Vice President of the United States is hereby abolished. The President and Vice President shall be elected by the people of the several States. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. Congress shall determine the time of such election, which shall be the same throughout the United States. Until otherwise determined by the Congress, such election shall be held on the Tuesday next after the first Monday in November of the year preceding the year in which the regular term of the President is to begin. Each State shall be entitled to a number of electoral votes equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress.

"Within forty-five days after such election, or at such time as the Congress shall direct, the official custodian of the election returns of each State shall make distinct lists of all persons for whom votes were cast for President and the number of votes for each, and the total vote of the electors of the State for all persons for President, which lists he shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall in the presence of the Senate and House of Representatives open all certificates and the votes shall then be counted. Each person for whom votes were cast for President in each State shall be credited with such proportion of the electoral votes thereof as he received of the total vote of the electors therein for President. In making the computations, fractional numbers less than one one-thousandth shall be disregarded. The person having the greatest number of electoral votes for President shall be President. If two or more persons shall have an equal and the highest number of such votes, then the one for whom the greatest number of popular votes were cast shall be President.

The Vice President shall be likewise elected, at the same time and in the same manner and subject to the same provisions, as the President, but no person constitutionally ineligible for the office of President shall be eligible to that of Vice President of the United States.

"SEC. 2. Paragraphs 1, 2, and 3 of section 1, article II, of the Constitution and the twelfth article of amendment to the Constitution, are hereby repealed.

"SEC. 3. This article shall take effect on the tenth day of February following its ratification.

"SEC. 4. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the States within seven years from the date of its submission to the States by the Congress."

[S. J. Res. 55, 83d Cong., 1st Sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States providing for the direct popular election of President and Vice President

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several States, as provided in the Constitution:

"ARTICLE —

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice President, chosen for the same term, be elected as provided in this Constitution.

"The electoral college system of electing the President and Vice President of the United States is hereby abolished. The President and the Vice President

shall be elected by a direct vote of the people of the United States, and the choice of the people of each State for President and Vice President shall be determined at a general election held in such State.

"The Congress shall determine the time of such election, which shall be the same throughout the United States, and unless otherwise determined by the Congress, such election shall be held on the first Tuesday after the first Monday in November in the year preceding the expiration of the regular term of the President and the Vice President. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

"SEC. 2. Within thirty days after such election, or at such time as the Congress shall direct, each State shall make distinct lists of all persons receiving votes for President and all persons receiving votes for Vice President, and the number of votes cast in such State for each, which lists shall be signed, certified, and transmitted sealed to the seat of Government of the United States directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be President, if such number be at least 40 per centum of the whole number of votes cast for President.

"The person having the greatest number of votes for Vice President shall be Vice President, if such number be at least 40 per centum of the whole number of votes cast for Vice President. No person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

"SEC. 3. If it is shown by such certificates that no person has received at least 40 per centum of the whole number of votes cast for President, the House of Representatives shall choose immediately by ballot the President from the three persons having the highest number of such votes. If it is shown by such certificates that two persons have each received at least 40 per centum of the whole number of votes cast for President, and have also received an equal number of all such votes cast, the House of Representatives shall choose immediately by ballot the President from such two persons. In choosing the President pursuant to this section each Member of the House of Representatives shall have one vote. A quorum for the purpose of choosing the President shall consist of two-thirds of the whole number of Representatives, and a majority of the whole number shall be necessary to a choice. If the House of Representatives shall not choose a President before the 20th day of January next following, whenever the right of choice shall devolve upon that body, the Vice President-elect shall act as President, as in the case of the death or other constitutional disability of the President.

"SEC. 4. If it is shown by such certificates that no person has received at least 40 per centum of the whole number of votes cast for Vice President, the Senate shall choose the Vice President from the three persons having the highest number of such votes. If it is shown by such certificates that two persons have each received at least 40 per centum of the whole number of votes cast for Vice President, and have also received an equal number of all such votes cast, the Senate shall choose the Vice President from such two persons. A quorum for the purpose of choosing the Vice President, as provided in this section, shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

"SEC. 5. Paragraphs 1, 2, and 3 of section 1, article II, of the Constitution and the twelfth article of amendment to the Constitution, are hereby repealed.

"SEC. 6. This article shall take effect on the 30th day of January following its ratification.

"SEC. 7. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

[S. J. Res. 85, 83d Cong., 1st Sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution relating to the nomination and election of candidates for President and Vice President, and to succession to the office of President in the event of the death or inability of the President

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the

Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice President, chosen for the same term, be elected as provided in this Constitution.

"SEC. 2. The nominees of each political party for election as President shall be nominated in primary elections held in the several States as provided by this section. The Congress shall by law prescribe the time (which shall be the same throughout the United States), places, and manner of holding such primary elections. The voters in such primary elections in each State shall have the qualifications requisite for electors of the most numerous branch of the legislature of such State. Any such voter shall be eligible to vote only in the primary of the political party of his registered affiliation. No person shall be a candidate for nomination except in the primary of the political party of his registered affiliation, and the name of each such candidate shall appear on the ballot of that party in all of the States. A political party shall be recognized as such for the purposes of any primary election held pursuant to this article if at any time within four years preceding such election the number of its registered members shall have exceeded 10 per centum of the total number of registered voters in the United States.

"Within fifteen days after any such primary, or at such time as the Congress shall direct, the official custodian of the election returns of each State shall make separate lists of all persons for whom votes were cast as nominee for President and the number of votes for each, which lists he shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Speaker of the House of Representatives, open all certificates, and the votes shall then be counted.

"Each political party in each State shall be entitled to a number of nominating votes equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress. Each person for whom votes were cast as nominee for President in any State shall be credited with such proportion of his party's nominating votes in such State as he receives of the total popular vote of his party therein for President. In making the computation fractional numbers less than one one-thousandth shall be disregarded unless a more detailed calculation would change the result of the election. The person having a majority of the nominating votes as nominee for President in the case of each party shall be the nominee of that party for President. If in any political party no person receives a majority of the nominating votes as nominee for President, then a second primary for that political party shall be held and the names of the two persons seeking the presidential nomination of that party who have received the greatest number of nominating votes in the first primary shall appear on the second primary ballot, and the one person receiving the greater number of nominating votes in the second primary shall be the nominee of that political party for President.

"In the event of the death or resignation, prior to the election, of the nominee of any political party for President, the national committee of such party shall designate a successor, but in choosing such successor the vote shall be taken by States, the delegation from each State having one vote. A quorum for such purpose shall consist of a delegate or delegates from two-thirds of the States, and a majority of all States shall be necessary to a choice.

"SEC. 3. The electoral college system of electing the President and Vice President of the United States is hereby abolished. The President and Vice President shall be elected by the people of the several States. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. The places and manner of holding such election shall be prescribed in each State by the legislature thereof. Congress shall determine the time of such election, which shall be the same throughout the United States. Until otherwise determined by the Congress, such election shall be held on the Tuesday next after the first Monday in November of the year preceding the year in which the regular term of the President is to begin. Each State shall be en-

titled to a number of electoral votes equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress.

"Within forty-five days after such election, or at such time as the Congress shall direct, the official custodian of the election returns of each State shall make distinct lists of all persons for whom votes were cast for President and the number of votes for each, and the total vote of the electors of the State for all persons for President, which lists he shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. On the 6th day of January following the election, unless the Congress by law appoints a different day not earlier than the 4th of January and not later than the 10th of January, the President of the Senate shall in the presence of the Senate and House of Representatives open all certificates and the votes shall then be counted. Each person for whom votes were cast for President in each State shall be credited with such proportion of the electoral votes thereof as he received of the total vote of the electors therein for President. In making the computations, fractional numbers less than one one-thousandth shall be disregarded. The person having the greatest number of electoral votes for President shall be President, if such number be at least 40 per centum of the whole number of such electoral votes. If no person have at least 40 per centum of the whole number of electoral votes, then from the persons having the two highest numbers of electoral votes for President, the Senate, and the House of Representatives sitting in joint session shall choose immediately, by ballot, the President. A majority of the votes of the combined authorized membership of the Senate and the House of Representatives shall be necessary for a choice.

"The Vice President shall be likewise elected, at the same time and in the same manner and subject to the same provisions, as the President, but no person constitutionally ineligible for the office of President shall be eligible to that of Vice President of the United States.

"The Congress may by law provide for the case of the death of any of the persons from whom the Senate and the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate and the House of Representatives may choose a Vice President whenever the right of choice shall have devolved upon them.

"SEC. 4. Whenever the powers and duties of the office of President shall devolve upon the Vice President or upon one of the persons designated by the Congress to act as President in the absence of a Vice President, and the date of the next general election for Senators and Representatives in Congress to be held more than ninety days after such powers and duties shall have so devolved is at least two years prior to the date on which the next regular quadrennial election for President is to be held, a special election shall be held in the several States for the purpose of choosing a President and Vice President. Such special election shall be held at the time of the next general election for Senators and Representatives in Congress, and, except as provided in this section, candidates for such special election shall be nominated and elected in the same manner as in the case of regular elections. The lists required by the first section of this article to be transmitted to the seat of the Government shall be transmitted within ten days after the election and shall be opened and the votes counted on the fifteenth day following such election. A President and Vice President elected at a special election held pursuant to this section shall take office on the fifth day following the day on which the result of such election shall have been determined and shall hold office until noon on the 20th day of January following the expiration of four years after the date on which they take office, and the terms of their successors shall then begin. Thereafter, except as provided in this section, the terms of the President and Vice President shall end at noon on the 20th day of January in each fourth year, and the terms of their successors shall then begin.

"SEC. 5. Paragraphs 1, 2, and 3 of section 1, article II, of the Constitution, and the twelfth article of amendment to the Constitution, and section 4 of the twentieth article of amendment to the Constitution, are hereby repealed.

"SEC. 6. This article shall take effect two years following its ratification.

"SEC. 7. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the States within seven years from the date of its submission to the States by the Congress."

STATEMENT OF HON. ESTES KEFAUVER, A UNITED STATES SENATOR FROM THE STATE OF TENNESSEE

Senator KEFAUVER. Mr. Chairman, I would like to make a statement, and after that we have Mr. Richard Childs with us whom I will introduce later.

Mr. Chairman, I appreciate the opportunity of appearing here in support of Senate Joint Resolution 17 and Senate Joint Resolution 19. I filed two of the resolutions now before this committee dealing with the election of President and Vice President, and I should like to discuss them together because they are related.

Senate Joint Resolution 17 provides for an amendment to the Constitution of the United States giving Congress the authority to provide for the nomination of the President and Vice President by primary elections.

Senate Joint Resolution 19, of which Mr. Neely, Mr. Sparkman, Mr. Hoey, and Mr. Morse join me in sponsorship, provides for an amendment to the Constitution dividing the electorial vote in each State proportionately with the popular vote.

Senate Joint Resolution 17 is simply authorization to Congress to provide for national primary elections. It proposes a new article in the Constitution reading as follows:

SEC. 1. The Congress shall have power to provide for nomination of candidates for President and Vice President by primary elections to be held in each State, the District of Columbia, and the Territories, and to make all laws which shall be necessary and proper for carrying into execution this provision.

Thus, it is merely the broad statement of principle. I have no doubt that we will go through a period of trial and error in the working out of laws governing a national primary. Therefore, the mechanics of such a primary have been left, under my proposed legislation, for future enactment into statutory law, where they can be more easily adjusted and adapted to meet the needs of the times.

Senate Joint Resolution 19 has been the subject of extensive hearings in the past. In the Senate, this measure has been sponsored previously by Senator Lodge, when he was a Member. I was one of its sponsors in the House before I became a Member of the Senate. It was once approved by this body, but failed to receive House approval.

The pertinent part of the new article to the Constitution which this resolution provides is the following:

Each person for whom votes were cast for President in each State shall be credited with such proportion of the electoral votes thereof as he received of the total vote of the electors therein for President. In making the computations, fractional numbers less than one -one-thousandth shall be disregarded. The person having the greatest number of electorial votes for President shall be President. If two or more persons shall have an equal and the highest number of such votes, then the one for whom the greatest number of popular votes were cast shall be President.

The Vice President shall be likewise elected; at the same time and in the same manner and subject to the same provisions, as the President, but no person constitutionally ineligible for the office of President shall be eligible to that of Vice President of the United States.

Mr. Chairman, with that explanation, let me say that from the beginning of our national history the selection of the Presidency has been a difficult and controversial problem. In the Constitutional Convention of 1787 various forms of three basic methods of selection

were considered at length: Selection by Congress, by the people, and by separate electors.

Selection by Congress was rejected because the Founding Fathers feared that this method would make the Executive dependent on the Legislature. Popular election was voted down because the majority distrusted the people. The method of choice by special electors was finally adopted toward the end of the Convention after 4 days of vigorous debate and substantial amendment.

In theory the electoral college method was an excellent solution of the problem. As James Bryce said:

> it was expected to secure the choice by the best citizens of each State, in a tranquil and deliberate way, of the man whom they in their unfettered discretion should deem fittest to be Chief Magistrate of the Union.

Alexander Hamilton wrote that this mode of election—

> affords a moral certainty that the office of the President will never fall to the lot of any man who is not in an eminent degree endowed with the requisite qualifications.

The experience of more than a century and a half of American history has proved the electoral college system to be sadly lacking in either excellence or perfection. The original plan worked well enough during the first two elections when Washington was first both in the hearts and suffrages of his countrymen. But the unforeseen development of political parties soon converted the electorial college into a rubber stamp for the candidates of the parties and deprived the presidential electors of their freedom of choice—all without changing any line or phrase of the Constitution itself. It would now be considered a grave breach of trust if an elector failed to vote for the nominees of his party.

Historical developments: There have been four principal developments down through the years since 1789 as regards the system of presidential selection. (These developments have been lucidly discussed by Clarence A. Berdahl in his article, Presidental Selection and Democratic Government, in the Journal of Politics, 1940, pp. 14 through 41.)

In the first place, the 12th amendment, requiring electors to vote separately for President and Vice President instead of for two persons for President, has greatly reduced the importance and prestige of the Vice Presidency. It was the theory of the original scheme that the electors would vote for the two best men, not knowing which of them might become President, and thus the second best man would be Vice President and both would be of presidential caliber.

In practice, however, under the operation of the party system, it has been generally true that the vice president has become "his superfluous majesty," as Franklin called him. Leading statesmen seldom seek the office, and the choice is usually left to the presidential nominee to fill on the basis of calculations of party advantage, with little if any consideration of his qualifications as a possible President.

In the second place, there has been a continuous trend toward more popular control in the selection of the President. Since 1864 the presidential electors have been chosen in all the States by the method of popular election. South Carolina, I believe, was the last State to abandon the selection of electors by the legislature. They did it up until 1864.

Meanwhile, various refinements of the presidential ballot—requiring electors to be voted for as a party group, placing the names of presidential nominees on the ballot with the electors, and the presidential short ballot—have facilitated popular participation in presidential elections.

In the third place, the so-called general ticket system for choosing presidential electors has been uniformly adopted in all the States. The effect of this system has been to give all the presidential electors of a State to that political party which carries the State, either overwhelmingly or by a mere plurality.

The general ticket system has also had the effects of preserving the one-party system in States where one party predominates, of concentrating campaign efforts in the doubtful States, and frequently of electing "minority" Presidents. Candidates with a minority of the popular vote have been elected President 13 times in American history—on 2 occasions without even a plurality of the popular vote.

Hayes was elected over Tilden with a minority of the popular vote. Tilden received more votes than Hayes. In one election William Jennings Bryan received more popular votes than the victor.

In 1824 or 1826 Andrew Jackson received more popular votes and more electoral votes than Adams or Crawford. It was thrown into the House and they threw a combination of strength between Adams and Henry Clay. Adams was elected and Jackson was defeated.

To summarize the benefits of the proposed amendment to the Constitution having to do with the electoral college, it would simply divide the electoral vote in a State in proportion to the popular vote. The advantage would be this would come nearer reflecting the popular will. The second advantage is that each State would be just as important as the other. It would bring about a substantial two-party system all over the United States. It would eliminate the evil that has grown up in the past of each party selecting the pivotal States and concentrating the election there.

Also, it would bring to the people of all the States the educational processor advantage that comes from having a vigorous election contest for the presidency. It would reduce sectionalism in that in the selection of the presidency, one State would be as important as the other. Issues would become more national than just local. It would assure a fair division of the emoluments of the office and power of the presidency in benefits and also in the selection of personnel.

I think it is a provision that is long overdue. It has great popular support.

The fourth development in respect to presidential selection has been the gradual democratization of the nominating process. This trend is seen in the early growth of political parties and the resulting change in the operation of the electoral college which I have already mentioned. It is also seen in the early development of the congressional caucus method of choosing presidential candidates (1796–1824), followed by the national convention system (1831–1912), followed by the convention system as modified by the presidential primary (1912 to the present).

I need not detain the committee with a review of these successive methods of nominating presidential candidates, for the operation of these institutions is well known. It is important to note, however, as

Professor Berdahl points out in his authoritative study of this subject to which I am indebted, that—

> the congressional caucus and the national convention both grew up as completely extralegal institutions, unknown to the law and unregulated by law; that the convention system was itself, at least in part, a response to the growing desire for more democracy in government; and that as its failures in this respect became more noticeable, there developed changes in party practice and a good deal of legislation (begun, in relation to presidential nomination, about 1901), all tending toward further democratization of and more direct popular participation in the process of choosing the presidential candidates for each party. * * *

Presidential primaries: Introduction of the presidential primary in various States in the early years of this century was designed to put the presidential nominations more directly into the hands of the people.

In the last Congress Senator Douglas had a proposal for the Federal Government, through the Attorney General, giving some assistance to States which would pass a State primary law for the selection of President and Vice President which I joined as a sponsor.

We ought to do anything we can to encourage the States to adopt presidential primary laws. But so far as the nomination of the President and the Vice President, it can ultimately be successfully handled only by Federal law which requires a constitutional amendment as I shall point out.

In that connection, Senator Smathers of Florida—I believe even when he was a member of the House—deserves a great deal of credit for his effort in behalf of trying to secure an amendment of which mine is similar, to enable the Congress to do something about this problem and pass laws to give us a Federal primary.

The CHAIRMAN. You might add I have had that same thing up ever since I have been in the Senate, year after year after year. That is, for the last 12 years. It was for direct election by popular vote.

Senator KEFAUVER. Senator Langer has had an amendment on which hearings have been held for the selection of the President by direct election.

The CHAIRMAN. We secured 33 votes—one-third of the Senate—the last time we voted on it.

Senator KEFAUVER. That refers more directly to the amendment with reference to the electoral college, the proposed constitutional amendment.

The CHAIRMAN. It abolishes it.

Senator KEFAUVER. And has the election of the President by popular vote. In the House, Congressman Emanuel Celler joined the chairman of this committee in sponsorship.

The CHAIRMAN. Senator Flanders has been very friendly to it, also.

Senator KEFAUVER. That referred to the matter of the selection of the President rather than the nomination by the political parties.

Senator Langer has been tremendously interested in both points ever since he began his distinguished service in the Senate.

First adopted by Wisconsin in 1905, this institution was used in 12 States in 1912, in 20 States in 1916 and 1920, and 23 States in 1924, in 17 States in 1948, and in 16 States in 1952. Democratic aspirations inspired the new device.

Mr. E. M. Sait had this to say in his book, American Parties and Elections (1939), page 547:

> The presidential primary represented an attempt to short-circuit an elaborate system of wiring and to deliver the full load of the current—the full force of the popular will—without the fatal leakages that had occurred along the old defective lines of transmission. It was intended to leave the national convention as little discretion in nominating the presidential candidate as the electoral college has in electing him.

While the presidential primary is a more direct and democratic method of nominating presidential candidates than the convention system, it has some serious limitations at present. It has limitations having been adopted by so few States. It is limited, in the first place, by the extent of its use. In only one-third of the States last year did the voters have a choice in the choice of delegates to the national conventions.

Of these 16 States only 3—California, Ohio, and Oregon—require the delegates to be pledged to a certain candidate. Six States—New Hampshire, Minnesota, Wisconsin, Massachusetts, Florida, and South Dakota—provide that delegates may be pledged to specific candidates, but this is not mandatory.

Six other States—Nebraska, Illinois, New Jersey, Pennsylvania, Maryland, and West Virginia—merely provide for the election of unpledged delegates. In 32 States the voters have no voice in the selection of their delegates to the national convention.

In the second place, the presidential primary device, since it is a State and not a national primary system, lacks uniformity in the nature of its methods for carrying out the popular will. Some State primary laws are devoted solely to electing delegates to national conventions. Others provide for both a presidential-preference vote and for the election of delegates.

One State has an unusual system, the State of Florida, which Senator Smathers represents, where they have a popularity contest first and wait for a couple of weeks for the selection of the delegates. They have two races down there.

The State laws also vary as to whether the delegates are pledged or unpledged and in the form of instructions to the delegates. No two laws are identical.

Weaknesses of primary system: In practice, moreover, the presidential-primary system as it is now operated on a State basis, has disclosed certain weaknesses. The proportion of the delegates to the conventions by primary States is too small to be decisive unless almost all of them support the same candidate; and even then the expressed will of the people may be frustrated by the blight of bossism in the convention.

Furthermore, not all the primary States afford an opportunity to choose among all leading contenders for the nominations. Some aspirants prefer to keep their hats out of the ring until at least the first few primaries have been held. Many candidates, out of courtesy or prudence, refrain from entering the primary of a State with a strong "favorite son."

Obviously, the results of a primary where voters have no chance to express themselves on all the leading candidates, except through writein votes, may not correctly measure sentiment within the State or afford unequivocal guidance to the conventions.

Another defect of the presidential primary system is the inability of the voters in the primaries to control the actions of the delegates they elect. In only six States, as I have said, may delegates be pledged to vote for a specific candidate. Nor does the preference vote for choice among candidates always serve to control the subsequent actions of delegates as it does under the laws of Nebraska and Oregon.

Election of delegates and preferential voting by congressional districts also work to confuse the picture. The classic example was the election by an Illinois district in 1920 of an avowed supporter of Senator Hiram Johnson as its delegate to the Republican convention, while General Leonard Wood was winning the district's presidential preference vote, and Gov. Frank Lowden was winning the preference vote of the State as a whole.

In some States, moreover, delegates at large are chosen by the party organizations. Hence, if the State machine does not favor the candidate who wins the State's preference vote or the largest number of district delegates, it is in a position to send to the convention delegates of contrary opinion who can bring pressure on the elected delegates.

Another feature which may tend to weaken the present presidential primary systems as a method of popular control over nominations is the variation of provisions in State laws with regard to the consent of candidates whose names, or those of their pledged delegates, appear on the ballot. While most State laws require specific consent by candidates, names may appear without consent in Illinois and Oregon if enough voters sign petitions on their behalf.

Popular control of the nominating process is also affected by the so-called favorite son game. One feature of this game is the tendency to bring forth favorite sons from the different States who are not really serious contenders for the presidential nomination, but are proposed sometimes merely to honor a leading citizen or politician, or often with the deliberate purpose of reducing the support of some more important candidate, or of holding large blocs of votes which will produce a deadlock and can later be used in the convention for trading purposes.

Another feature of the favorite son game is the practice of field against the favorite in which all the favorite sons pool their strength in the convention against one outstanding candidate, in the hope that he will be defeated and the lightning will strike one of them. In view of this practice, writes Berdahl,

It is nothing short of amazing that the people's choice ever wins, and, in fact, leading statesmen are discouraged from entering the primaries at all.

In view of all these limitations of the existing convention primary system, there is no assurance that the convention results reflect the real desires of the party rank and file.

It is only possible to assert,

concludes Berdahl,

that there is in the presidential primary, especially with some method of instructions, an opportunity for popular participation and influence in respect to presidential nominations that can easily be developed more fully, if such development is desired.

Proposed reform: In the light of this historical development and of the long-run trend toward the democratization of the present presi-

dential nominating process, and of these weaknesses of the present presidential primary system, I suggest that the time has come to take the next step toward extending popular control of presidential nominations.

Forty years ago President Wilson wrote that—

> there ought never to be another presidential nominating convention. * * * The nominations should be made directly by the people at the polls.

In his first annual message to Congress in December 1913, Wilson formally proposed the establishment of a national presidential primary and the retention of the convention only for declaring the results of the primary and formulating the party platform.

A Gallup poll last July showed that the Nation's voters, of both parties, are overwhelmingly in favor of abolishing the convention system and letting the people choose presidential candidates in national primary elections. Seventy-three percent were in favor of this plan, 16 percent opposed it, and 11 percent were undecided.

The huge write-in vote in several of the States that held presidential preference primaries last year is evidence that the people desire to have a larger voice in the selection of their party candidates.

I think the convention system of choosing candidates of a political party is a blind spot in our whole election system. It is a place where the people have little to say.

Senate Joint Resolution 17, which I introduced on January 13, 1953—and there is little difference between this one and the very excellent Senate joint resolution which the distinguished Senator from Florida, Senator Smathers, has introduced; they both proposed substantially the same thing, although there are some few differences in detail—would amend the Constitution by empowering Congress to provide for the nomination of candidates for President and Vice President by primary elections to be held in each State.

The resolution has the merit of simplicity. It avoids legislative details. It sets forth the general principle, leaving the particulars to be developed after the reform has been approved by constitutional referendum. Approval of this resolution will be a first step toward making sure that future Presidents of the United States are the choice of the people.

In the January or February issue of the Collier's magazine I wrote an article setting forth a suggestion of the type of Presidential primary that Congress might want to consider if a constitutional amendment were adopted. Of course, the whole matter would be up to Congress, but this might be informative, at least. I would like permission to have this article printed as an appendix to my statement.

The CHAIRMAN. It will be done.

(The article referred to follows:)

[From Collier's, January 31, 1953]

WHY NOT LET THE PEOPLE ELECT OUR PRESIDENT?

(By United States Senator Estes Kefauver with Sidney Shalett)

(The crime-busting candidate who won 14 of the 17 Democratic presidential primaries in 1952—but then lost the nomination—tells how we can thwart the bosses who ignore the people's vote.)

Dwight D. Eisenhower, as he goes into the office of President of the United States (an office that I myself sought long and hard), has my fervent wish that he will give us an administration which will make our country strong and secure.

Though he is a Republican and I am a Democrat, he will have my support as a United States Senator whenever I believe he is right. This is no time for narrow and petty partisan politics.

There is a second equally fervent wish on my mind at the start of the administration of the man against whom I might have run had it not been for the rather peculiar brand of politics within my party: Whether Eisenhower is reelected in 4 years, or whether the Democratic Party returns to power, I hope he will be the last President to be chosen by the now prevailing undemocratic process which gives the people no real voice in the nominations of the presidential and vice presidential candidates.

The election system in this country is bad enough, pegged as it is to the antiquated electoral college tradition which makes it possible for a candidate to receive a minority of the popular vote and still be elected President. But the convention system is a mockery of our democratic processes. The system—as was demonstrated by the 1952 Democratic National Convention—is an easy tool for the political bosses, the slick manipulators and the unscrupulous kingmakers. Boss-ridden Republican conventions, of course, have been notorious in American politics.

There is nothing particularly new about this situation. Students of politics have known for a long time what a weak reed the convention system is for our democratic government to lean upon. What is new, however, is that now, thanks largely to television, the people are on to it, too. TV has brought the national convention into the living room of the American home, and has exposed it for the undemocratic spectacle that it is.

Those of us who are interested in good national government long have felt that election reforms are needed, if we ever are to break the hold of the bosses and others who make decisions in smoke-filled rooms. Our efforts so far have been fruitless; we try, but the political bosses of both parties—those smug, self-satisfied advocates of the status quo—won't listen.

Last year, for instance, long before the convention, I joined in a bipartisan movement with Senators Douglas, Smathers, Tobey, Hunt, Murray, Aiken, and Margaret Chase Smith. We wanted a simple bill, authorizing the United States Attorney General to make agreements with all the States to conduct preference primaries for selection of presidential and vice presidential candidates. We couldn't even get our bill onto the Senate floor for a vote. Similarly, I have joined repeatedly in bipartisan moves to reform the electoral college along 20th century lines. All have failed.

HOPE FOR ELECTION REFORMS

This year, however, thanks to greater knowledge of the people, who now have seen for themselves what shabby performances the national conventions really are, we have new hope. Nineteen fifty-three may be the year of decision, the year to get something done. Toward that end, I already have introduced a resolution—and similar legislation has been introduced by others—calling for a constitutional amendment on election reforms.

I purposely have made my bill flexible. If Congress will pass it, there will be a national referendum to decide whether there shall be a nationwide primary for selection of presidential and vice presidential candidates by the major parties. If legislatures of three-fourths of the States vote "yes," it then will be up to Congress to work out the details and enact such legislation.

Obviously, I have more than an impersonal interest in the subject of convention reforms. In seeking the Democratic nomination for the Presidency last year, I knew in advance that most of the big-city machines would be against me, so I took my case to the people. Even though I made a good showing with the voters, the boss-run convention machinery had me stopped in Chicago. Because the archaic convention system makes it so easy for the bosses to control the show, I could not win, despite my popular support.

I sought the nomination, I might add, only after thoughtful, serious consideration, in which I took into full account the difficulty involved in running against such a distinguished adversary as Gen. Dwight Eisenhower. It was not a frivolous impulse.

I worked hard for the nomination. Democratic primaries were held in 16 States and the District of Columbia. I entered all but 1 of these primaries, and won 14 of them. Out of a total of some 4,600,000 Democratic primary votes cast, I received 3,140,000. The second-placing candidate received only 370,000 votes.

Just before the Democratic convention in Chicago, the Princeton poll showed that, in the preference of Democratic voters, I led the field. I went to the con-

vention—the winner of the primaries, the choice of the polls—with the largest number of delegates. These delegates held firm to me for two ballots—and then the power of the machine overcame us.

What happened? I had aroused the implacable enmity of certain politicians, including some defeated hacks and various political yeomen who were taking orders implicity from the outgoing Truman administration. There were a number of reasons for their enmity, none of them very inspiring. Some resented my call for new, young, vigorous leadership in places where the party had fallen in stodgy and selfish hands. Others were angry because I had announced for the nomination before Mr. Truman made his intentions known. Still others were irked because I did not withdraw from the New Hampshire primary after Mr. Truman decided to let his name be entered. My victory in New Hampshire, of course, didn't help.

Then there were those who were angry with me because, as chairman of the Senate Crime Investigating Committee, I carried out my sworn obligation to uncover facts where I found them, without regard for party politics. I might say that, regardless of what my policy cost me at the convention, nothing in my public career brings me greater satisfaction than the fact that our committee didn't consider the politics of a man before we exposed his crookedness or criminality. So far as we were concerned, a Democratic crook was as bad as a Republican crook.

THE MAN WHO WAS DRAFTED

Being thus committed to "stop Kefauver," these machine stalwarts, who were all-powerful behind the convention scenes, disregarded what the people and largest bloc of the delegates said they wanted. They chose a man who was virtually a political unknown on the national scene; a man who publicly insisted he did not want the job, and who had refused to enter a single primary. His selection was said to be a "draft," but some observers have remarked that it was a mighty peculiar draft, with such stalwarts as Truman, Jake Arvey, Sam Rayburn, Scott Lucas et al. blowing on the fire, and minor wood carriers tossing in their little bits of kindling.

As it turned out, Adlai Stevenson showed himself to possess many attributes of greatness. He spoke with moving eloquence, displaying courage, vision, and nobility of purpose. I would not be honest if I denied my disappointment at not receiving the nomination which many observers felt was denied me not by the people but by the party bosses. But I put down my disappointment and campaigned vigorously for Governor Stevenson. I campaigned in good conscience, believing that the country would be best served through his election.

I do not think that Stevenson himself altogether liked the company he was bound to by the circumstances surrounding his nomination. He tried to rise above it and I suspect he genuinely wished he could have done so. But it could not be done.

Would the election have gone differently for the Democrats had I—a candidate not obligated to the administration—been nominated instead of a candidate hand-picked by Truman & Co.? I would not be so immodest as to predict that, with the temper of the country as it was, I would have beaten the formidable General Eisenhower. But I will quote what an old friend, experienced in politics, said to me just before the convention. "Estes," he said, "I don't see how you're going to lick the Democratic bosses, but, if you do, I think you've got a good chance, at least, against Ike."

Certainly, I thought that by putting on a vigorous nationwide campaign, by frankly discussing the issues with the voters and presenting a positive program for achieving peace, international security and morality in government here at home, I stood a chance to be successful. I felt my candidacy offered the change in government the voters obviously wanted. If I had thought it impossible for me to win, I would not have done my party—and myself—a disservice by seeking the nomination.

STEVENSON AT A DISADVANTAGE

Quite possibly, with the demonstrated reaction against the recent administration, I, too, would have been defeated by the general. However, I would have had fewer burdens to carry than Governor Stevenson. For one thing, through my participation in the State primaries, my views and what I stood for were better known to the voters than those of Mr. Stevenson, who entered no primaries.

For another thing, I would not have had the handicap of having such enthusiastic support from Mr. Truman, whose campaign placed the efforts of the Presidential nominee himself into such a peculiar and undignified second billing.

In retrospect it is obvious that the give-'em-hell whistle-stop tour by the outgoing President was a mistake.

In fact, when I went to Springfield at Governor Stevenson's request and discussed campaign strategy with him, one of the principal pieces of advice I gave him was to disassociate himself from the apron strings of the White House. In this opinion, Charles Neese, a Tennessee attorney who had covered the entire United States as principal organizer of the Kefauver-for-President Clubs, heartily concurred.

Mr. Stevenson was to go to Washington the next day for his first briefing at the White House. He asked me what I thought, and I told him the best thing he could do was to come down with a sudden threatened attack of appendicitis or something and cancel that trip to Washington. At least, that was my opinion, and I still think he would have been better served at that point had he stayed in Springfield and run his own campaign. While future history may applaud—and rightly so—many of the sound accomplishments of the Truman administration, it was an obvious fact that the President's popularity and the prestige of his administration were in a decline.

I believe the proposal for a national presidential primary has a greater chance for success if we advance it first as a general principle, then work out the details after the reform has been approved by constitutional referendum. For this reason, I purposely kept my resolution simple and nonspecific as to details. I have in mind, however, a pattern for a nationwide presidential primary, and I will work for adoption of a bill along such lines if the basic idea is adopted as a constitutional amendment.

A PRIMARY FOR EVERY STATE

My plan is as follows:

Step 1: There shall be a primary in every State, provided for by Federal law, to determine the popular choice of the people for President. In each primary, delegates shall be elected to cast their votes at a streamlined national convention for the choice of their State's voters.

Discussion: There have been presidential primaries in various States since Wisconsin passed the first such State law in 1903. Currently, 19 States have primary laws of one sort or another. The laws, however, are not uniform, and in some States are not even binding on the delegates; the lack of uniformity, plus the fact that most of the States do not have primaries, leads to a helter-skelter pattern that prompted Mr. Truman, just before the New Hampshire primary, to brand presidential primaries as "eyewash."

With a uniform and binding law applicable to every State, presidential primaries no longer would be "eyewash," but would be meaningful. Mr. Truman, incidentally, has endorsed the principle of national primaries, as did the late Woodrow Wilson.

Step 2: No candidate shall be placed on the ballot in any State primary without his consent, and he must file a qualifying petition signed by not less than 1 percent of the total number of voters who voted for the presidential candidate of his party in the last election.

Discussion: This provision would make it necessary for a man to be a willing candidate and to work for his nomination. I believe it is a good principle, and a democratic one, for "the man to seek the job"—particularly under the proposed new system where the voters really would have something to say about selection of candidates. It also will eliminate many of the nonserious candidates—favorite sons and others.

Step 3: A uniform nationwide system of choosing delegates, based on the vote of the political party of each State in the previous presidential election, shall be adopted. There shall be provisions to limit the number of delegates so as to avoid the present unwieldly size of national conventions, and there shall be no split votes—such as one-half and one-third votes.

Discussion: It would be politically healthy to peg a State's delegates to the total votes mustered by the party in the last election. For one thing, the system would strike a blow at local bosses, who sometimes actually connive to keep down the total votes, because of the greater dictatorship they can exercise when only a few citizens vote.

I suggest that, instead of the present one thousand two hundred-odd votes at a convention, with some of them split between 2 and 3 delegates, the total be limited to no more than 600, with no split votes. It is impossible to conduct an orderly convention with some 2,000 (counting the split votes) delegates—not to mention their alternates—milling about.

Step 4: Delegates shall be firmly pledged to cast their votes on a proportional basis geared to the State vote received by the candidate. As a simple illustration, if a State has 10 delegates and candidate. A receives approximately 60 percent of the vote, he will receive 6 votes at a convention. (To avoid undesirable fractional ballots, machinery can be set up whereby the division of delegates is calculated by round numbers, rather than by exact fractions.) The delegates will continue to vote for the candidate to whom they are pledged as long as he receives as many as 10 percent of the total vote cast at the convention (with certain provisions in case of deadlock).

Discussion: I gave thought to the alternate possibility of having the candidate who receives a plurality of the State vote capture all the State delegates. I believe, however, that proportional division is fairer, and would reflect the wishes of the voters more accurately. Such a division is more in line with the belief of many legislators, myself included, that the electoral-college vote should be divided proportionately, rather than letting the candidate who gets the most popular votes in a State take all of the State's electoral votes.

Another possible alternative, which might be considered as an interim measure pending reform of the electoral-college machinery, would be a Federal primary law patterned after the excellent Wisconsin State law. In Wisconsin, the candidate receiving the largest statewide vote wins a certain number of delegates running as the State delegates at large, while winners in various congressional districts get the votes of delegates for those districts.

As a means of breaking an early deadlock, a candidate should be given discretionary authority to release his delegates when he feels he cannot win. The law should be written to indicate strongly that the delegates, once released, are free agents, at liberty to exercise their best judgment as to preference among the remaining eligible candidates; the practice of trading delegates to accomplish private political deals should be discouraged.

WHEN DELEGATES ARE "FREED"

Step 5: Nomination for President shall be by a simple majority of the total number of votes cast by delegates at the convention. If no candidate has a majority, and has not released his delegates, after 10 ballots the delegates shall be considered free of their obligation to vote for the winner of their State primary, but must vote for one of the candidates receiving the top 3 total number of votes in the national primary.

Discussion: This step provides a key which makes the proposed system practical. In combination with step 4, it would mitigate the nuisance value of any surviving favorite sons, who could not hope to hang on for 10 ballots, but would try to trade delegates for favors. The provision for picking the presidential nominee from the aspirants who placed first, second, and third in the nationwide primary popular vote is a means of respecting the will of the voters. It also has constitutional precedent, for the 12th amendment provides that, in the case of a deadlock in the electoral college, the House of Representatives shall select a President from among the top 3 candidates.

Step 6: Finally, after the presidential nominee is chosen, the vice presidential nominee shall be chosen by a vote of the delegates from the 3 candidates who polled the next highest number of votes in the nationwide primaries.

Discussion: This proposal is made in an effort to respect the wishes of the electorate; if adopted, it would keep nonentities out of the Vice Presidential office, and effectively curb the practice of degrading the office of Vice President to an object of political barter. It would mean that the vice president post would go to a man sufficiently interested in public service to get out and work for his nomination in a primary, and that the post would be filled by a man whom the people knew, and who was of sufficient stature to have placed at least fourth in the national presidential primary.

With all respect to the Republican and Democratic vice presidential nominees of 1952, can anyone say they were the choice of the people? Under the system I propose, there would be an opportunity for any political skeletons hiding in the closets of the eventual presidential and vice presidential candidates to be brought into the open—before, not after the nomination.

If Senator Richard Nixon, for example, had wanted to be Vice President, he would have had to expose himself to the electorate as a serious candidate for President. The facts about his qualifications, and presumably such issues as his $18,000 private fund, then would have come out, and the Republican voters would have judged whether they wanted him in a critical post. We must remember that a Vice President always is a "serious candidate" for President, for seven

times in our history Presidents have died in office. The office of Vice President always should be filled by mature, capable individuals of whom the voters have full knowledge. We should not take chances on political accidents elevating unknowns and mediocrities into the highest office of the land.

A "CUMBERSOME PROCEDURE"

One of my colleagues, Senator George Smathers, of Florida, who also has introduced a bill favoring presidential primaries, has proposed that, if a vice president succeeds to the Presidency by reason of death, there shall be a special presidential election at the next general election to choose a new President. This procedure, in my opinion, would be cumbersome. The system by which one of the top four choices of the victorious party would become Vice President would eliminate the necessity for such a special election.

Another healthy reform that could evolve naturally from such a program would be a shorter campaign period for the men finally chosen by the major parties as Presidential nominees. The party candidates would fight it out in the primaries, which would be held simultaneously throughout the country on a fixed date in August. The national conventions then could be held in September. Assuming that the successful candidates would take the usual amount of time to map out their campaign, the actual campaigning could be limited pretty much to the month of October. That plan would be good life insurance for our Chief Executive.

Personally, I would like to see all campaigning elevated to a less strenuous, more intellectual level, with less wear and tear on the candidates.

I have never seen any sense in practically killing off our Presidents before we elect them, and I do not believe the American people really want that.

From my own experience in the preconvention primaries and on the campaign trail for Stevenson, I can testify that national campaigning is a rugged ordeal. I'm a reasonably durable physical specimen, but the grind got me down at times. I'll never forget the day I was campaigning with Nancy, my wife, during the New Hampshire primary. We passed from one snowbound town to another, and every time I saw a crowd of prospective voters I automatically left my car, went over to them and started talking. In one town, I approached such a group, saying: "I'm Estes Kefauver. I'm running for President—how'm I doing here?" One fellow answered me dryly: "You're doing fine here, but you'd better get back to New Hampshire where the primary is—this is Vermont!" Without knowing it, I'd crossed the State line.

While campaigning for Governor Stevenson, I used the same chartered airplane in which I covered the country in my own campaign—only the coonskin cap and the "Kefauver for President" legend were painted out. Once in Willmar, Minn., we had to switch to a smaller private plane to make a landing on a small field; D'ck Wallace, my administrative assistant, and I actually had to help the pilot chase cows off the runway before we could take off. Anyone who wants my support for a Federal fencing law covering airports can have it.

Another time, I was supposed to fly back from an ox roast given by my friend, Representative Wayne Hays, at Wellsville, Ohio, to debate in Cleveland with a Republican Senator on a nationwide TV hookup. The plane provided for me was of ancient vintage, and I kept poking the pilot futilely to try to go faster. The telecast already was on the air when we landed, and Cleveland police took me through the city streets at a terrific pace to catch the tail end of the program. I almost became the subject of a crime inquiry myself, instigated by the justly irate local chief of police. I felt obliged to write him, asking him to blame me, not his officers.

Critics may argue that the strain of running in 48 separate primaries might kill a candidate. I do not think so, particularly with the advent of television. The campaign in each State need not be as intense as the full-dress presidential campaign. And, when the successful candidates of the major parties finally enter upon the shorter campaign to decide the election, both they and what they stood for would be so well known to the voters that the campaign actually would be easier. It could be conducted on a higher plane, involving issues rather than personalities.

Others may contend that, with a national primary system, the race might go to the candidate with the biggest organization and the most money. Again, I disagree. Certainly with scant organization and very little money, I fared well in the primaries I entered. How well that was demonstrated in Nebraska! There, my opponent, Senator Kerr, was able to blanket me with campaign

literature, professional workers, entertainment, newspaper advertisements, radio and TV time. In Omaha, I remember, the opposition even bought up all the advertising space on the sides of the city trash cans. Yet, even with the trash cans against me, I captured more than 60 percent of the votes.

My own experience at the Democratic convention demonstrated how easy it is for the faction that controls the convention machinery to operate unfairly against the candidates it opposes. Let me cite some examples:

On the platform committee, several members favorable to my candidacy felt the convention should have the opportunity of voting on a stronger anticorruption plank; also a plank advocating congressional reforms to mitigate the effects of "McCarthyism." Col. Phil Whitaker, a distinguished Tennessee attorney, and Jimmy Roosevelt, son of the late President, made the necessary arrangements to present the minority reports and to offer amendments. They were told to take seats on the rostrum so as to be available to speak in support of the amendments. We had eight other speakers on the rostrum to back them up.

The platform, which contained a pious "we're-against-sin" plank, was read. Then Chairman Sam Rayburn hurriedly came to the podium and, with his well-known finesse, put the motion and declared the platform adopted. Colonel Whitaker and others protested his speedy action. Finally, Mr. Rayburn allowed Colonel Whitaker the grand total of 2 minutes to "explain" the proposed amendments. Since the deed had been done, the belated recognition was quite academic. We were angry about it and said so. Our anger only made Mr. Rayburn rougher from then on when my supporters sought recognition.

On the Thursday night of the convention, when a recess was obviously in order, the distinguished Senator from Illinois, Paul Douglas, who was one of my supporters, did everything but tear out his hair and throw it at the chairman in a fruitless attempt to make a motion to recess. Senator Douglas' seat in the convention hall was squarely in front of Mr. Rayburn's perch on the rostrum, but, despite some highly athletic maneuvers on the Senator's part, the chairman couldn't quite recognize him. "He looks me straight in the face, but he can't seem to see me!" Senator Douglas exclaimed in a broadcast from the floor. It finally took a fire in the convention hall, and an ultimatum from the Chicago fire marshal, to get the recess.

FINAL GESTURE OF CONTEMPT

Some disillusioned delegates have commented that the most undisguised demonstration of contempt for the men and women who were supposed to represent their home States at the convention was the Scott Lucas-Clarence Cannon Act, staged on the Friday evening before the convention closed. All the intrigues had been played out; the "ins" had had their way. The exhausted delegates wanted merely to vote for a Vice President—for any Vice President—and go home.

The powers that be, however, hadn't quite got together on who would be tapped. Up stepped former Senator Lucas, who blames my investigation of Illinois politics for his retirement from public life, to present a motion to recess until Saturday morning. Acting Chairman Cannon, the parliamentarian of the convention, banged his gavel and put it to a vote. Almost to a man, the delegates jumped to their feet and roared, "No!" Brother Cannon gave them his famous scowl, banged the gavel again, and declared the motion carried.

The most aggravating personal humiliation that those who ran the convention tried to heap upon me came when they denied me the privilege of taking the floor to release my delegates and end the long fight for the presidential nomination. Had they shown me this courtesy, much intraparty bitterness and several hours of a useless roll call would have been saved. Though I did not enjoy the physical and emotional strain of sitting on that platform for several hours while they played out their game, I could be philosophical about it for I am reasonably hardened to some of the strange ways of politics. What was harder for me to take, however, was their attempt to stop my wife, Nancy, and my father, who were bewildered by the turn of events, from even reaching me on the platform to inquire what was happening.

There is not the slightest doubt in my mind that the electorate is fully awake to the need for election reforms. Public-opinion polls already have shown an overwhelming majority in favor of selection of the President and Vice President by national primary.

The era of boss rule in American politics is fading. Every time the issue of bossism versus the American people is tested at the polls now, the bosses take another licking. Let's hand them a death blow by taking the presidential

elections out of the smoke-filled rooms and the rigged convention halls, and placing them, via the national primary method, firmly in the hands of the people.

Senator KEFAUVER. The time has come to continue the evolution toward more democratic methods of choosing our presidential and vice presidential candidates. The more the people have a chance to speak their minds, the closer we get to grassroots opinion and desires, the better our democracy works.

Presidential primary elections in all the States would require candidates to discuss the issues publicly. Such public debate will help to inform and enlighten public opinion via press, radio, and television. And it would pave the way for broadening and strengthening the democratic process.

Past experience shows that presidential primaries arouse public interest and stimulate discussions of public issues, as well as of the character, convictions, and abilities of those who aspire to the highest offices in the land. They also increase the participation of eligible voters in presidential elections and overcome the apathy induced by the feeling that the people have little voice in the selection of their candidates for President and Vice President.

In this period of struggle between the democracies and the dictatorships, the choice of men to lead our Nation is too important to leave solely in the hands of politicians.

The primary method of nomination works well in selecting governors and Members of Congress in many States. It should be extended to the choice of candidates for President and Vice President. It will give the voters a wider selection of candidates and hence will insure that better candidates are finally chosen for these high offices.

It will also result, I believe, in better government, cleaner government, and government more responsive to the will of the people. A candidate for President who has been nominated by the people instead of by the professional politicians will be, if elected, more responsive to the wishes of the people and to the national interest. The archaic convention system does not necessarily register the preferences of the people.

The conduct of the national political conventions last summer gave rise to widespread public dissatisfaction with the present method of selecting nominees for President and Vice President. Television revealed to the American people the inefficient and undemocratic aspects of the convention system. The 1952 conventions were an eye-opener to the American people. Their weaknesses and defects were observed at home and abroad.

In conclusion, the long-run trend has been toward the gradual democratization of our electoral system. Discretionary voting in the electoral college was early removed. Property qualifications for voting disappeared more than a century ago. The 14th and 14th amendments were adopted after the War Between the States. The direct election of Senators and woman suffrage continued the evolution in this direction. It remains now to democratize our methods of nominating and electing the President and Vice President.

These and other election reform proposals have been pending in Congress for many years. None of them has yet been submitted to the referendum of the people who are profoundly discouraged by the prolonged delays. Only Congress can initiate these reforms. Unless we act to strengthen the machinery of democracy, the people may lose faith in our form of government.

This greatly needed election reform would correct a serious defect in our political system and remove the blight of bossism that now characterizes our party conventions.

These amendments should be proposed by Congress as soon as possible in order that there may be time for their adoption and implementation before 1956.

That concludes my statement.

The CHAIRMAN. Senator Kilgore, have you any questions?

Senator KILGORE. I wanted to get something straightened out in my mind because we abolish the electoral college system for the election of President and Vice President on page 2 of the bill. However, the word "electors" is used on page 3. By "electors" do you mean the voters? Do we still have the electoral system?

Senator KEFAUVER. Reference is to Senate Joint Resolution 19. I suppose it is a mistake to discuss the primary and electoral college matters together.

Senator KILGORE. I am talking about Senate Joint Resolution 19.

Senator KEFAUVER. Senate Joint Resolution 19 substantially abolishes the electoral system but it provides still for the election of electors by the people. Electors would still be elected but they would be only automatons to cast the will of the people.

Senator KILGORE. What I am getting at is this: Suppose John Jones receives a majority in the State of Tennessee. Does he get the entire number of electors from that State?

Senator KEFAUVER. No. He would get only the proportionate part, a percentage.

Senator KILGORE. For instance, if he got 60 percent of the votes, he would have 60 percent of the electoral vote; is that right?

Senator KEFAUVER. Of the 12 electoral votes, that is right.

Senator KILGORE. In other words, what this really does is abolish what we used to call the unit system which the States vote as units but they still vote by electors.

Senator KEFAUVER. Also it makes mandatory that the electoral votes which a particular candidate gets be for him. That is the practice at present but it is by practice, not by law.

The CHAIRMAN. Senator Kefauver, does not your statement contradict your bill? You say here on page 9 of your statement that—

> a primary method of nomination works well in selecting governors and Members of Congress in many States. It should be extended to the choice of candidates for President and Vice President.

When you and I elect a mayor, a Member of Congress, or a Senator, you have no electors. People go in there and vote and the majority wins.

Senator KEFAUVER. What you read, Mr. Chairman, refers to the presidential primary bill and not to the electoral bill. What you read refers to Senate Joint Resolution 17. In many States the candidates of the political parties are selected by primary, in regard to Congressmen, Senators, and governors.

The CHAIRMAN. What is wrong with that? Supposing now you and Senator Kilgore and Senator Smathers are all three candidates for President in a primary election in June. Over here there are three Republicans running. Anybody else could file with proper provisions being made. Why should not the highest nominee be the candidate in the November election of that particular party?

Senator KEFAUVER. That is what I am for.

The CHAIRMAN. Why bother with electors?

Senator KEFAUVER. The electoral thing should not be in this same discussion, but I am discussing both constitutional amendments here together. There would not be any electors in this case. It would just be the high man won the nomination for his party. What I said there was that it works well, the primary system, in the selection of candidates for Congress, the Senate, and for governors, and it ought to be applied to the President.

The CHAIRMAN. You mentioned a while ago the Lodge bill voted on recently. You will remember he had the electors in there in the bill. Do you recollect that? Do you recollect the votes he got and that the amendment which we introduced there to provide for the direct election of President by direct vote of the people got 33 votes? Thirty-three votes, and Senator Long of Louisiana was paired.

Senator KEFAUVER. The reason I think this arrangement of dividing the electoral votes in proportion to the popular vote rather than electing immediately by popular vote all over the United States is preferable, the system set out in Senate Joint Resolution 19, which is a proportionate dividing of the electoral vote rather than electing across the Nation on a popular vote, is primarily the fact that it would be very difficult to get the smaller States to ratify a nationwide voting.

The CHAIRMAN. Why would it?

Senator KEFAUVER. Because they would lose some strength.

The CHAIRMAN. No.

Senator KEFAUVER. Let us take the State of Nevada. Nevada has 3 electoral votes, 1 for each Senator and 1 for the Congressman. Three electoral votes is a great deal more strength nationwide than the proportionate population of Nevada to the whole Nation would be. That applies to some 20 States, so it would be very difficult to get those States to approve this.

Senator KILGORE. Actually it applies to more than 20.

Senator KEFAUVER. Twenty-six States.

Take Arizona, New Mexico, Idaho; all of those States would lose their proportionate strength because as it is now they have an electoral vote for each Senator.

On a popular basis they would not have anything like that strength.

The CHAIRMAN. If your theory is right, when you elect a governor, a county with a sparse population would be in similar shape as Nevada; yet the people do not object to it.

Senator KEFAUVER. The present method has been the practice for 160 years. It is asking people to give up something which is necessary for them to give up in order to get something different.

The CHAIRMAN. What are they giving up? You have had New York controlling the presidential election in the last 30 years. You have had Mr. Dewey and Mr. Roosevelt and Wendell Willkie. Also John W. Davis.

Senator KEFAUVER. The adoption of the plan in Senate Joint Resolution 19 would do away with that. It would do away with the picking out of 6 or 8 pivotal States and selecting candidates from those States. It would come very close to reflecting the popular will.

The CHAIRMAN. I just cannot agree with you at all. Under the system we have, a fellow from a small State—like Idaho—has no

chance. Under a system where anybody can run by getting the required petitions, Mr. Borah could have run.

Senator KILGORE. An illustration is my home State.

Senator KEFAUVER. It is true that a person from a small State has great difficulty in being considered under the present system. But that would be corrected by Senate Joint Resolution 19 because in those States, one-party States or small States, a vote would mean just as much as it would in a large State, so I think this would have the effect of correcting that inequity. I mean Senate Joint Resolution 19.

Senator KILGORE. The illustration I was going to use happens to be in my home State. We have one county that has 11 percent of the population of the whole State. Yet nobody runs for governor or statewide office from that county with any possible chance of success because the little counties gang up on him and lick him every time. It has been tried repeatedly, and invariably the candidates are just out of luck because the little counties gang up on him.

The CHAIRMAN. Senator Smathers?

Senator SMATHERS. Under his proposal anybody from Nevada or any small State can run so long as he meets the qualifications. If he gets 20,000 votes, I mean, or whatever details the Congress provides. That is the whole purpose of the primary, to let anybody run irrespective of what State they may come from if they have general support throughout the Nation.

Are you through with Senator Kefauver?

The CHAIRMAN. I thought you had some questions.

Senator KEFAUVER. Senator Smathers has been sponsoring an amendment for a presidential primary for quite a while.

Senator SMATHERS. I agree with everything he has to say very much and recognize, as he does, the only difficulty about having a direct popular vote is just as he said. It looks like to me we will have a difficult time. It has to be ratified by the State legislatures.

We are going to have a hard time getting Delaware and Rhode Island and small population States to vote to ratify it or change the Constitution providing for the system which he proposes unless we keep in this division of the electoral college vote and the proportionate vote. Otherwise, they are losing strength. They do not have enough population to in any way make themselves effective in a nationwide race. That is, unless they have the electoral college system.

That is why we are trying to hang onto the system, to get their support for this change. If we could get it without having the electoral college system divided up on a proportionate basis, maybe it would be better. From all I hear of the State legislatures of these smaller States, they will not go for it.

Senator KILGORE. John W. Davis was from West Virginia but nominated from New York.

The CHAIRMAN. I would like to have some Senator point out some fellow who came from a little State.

Senator KILGORE. Virginia was the biggest State in the Union for a long time and it nominated and controlled the presidential nominations; Madison, Jefferson, and the rest of them came from Virginia, as well as Washington. We had that all the time as you say.

The thing that worries me all the way through is that we get into the question of electors which is this: Let us get in one of these one-party States where you have no Democrat Party or no Republican

Party, just a handful. If you use the electoral representation system, a couple of thousand people can go down there and throw just as much weight into that primary.

Let us take the State of Georgia or Alabama. A Republican voting in the primary down there, his vote is worth about 500 times the vote of the Democrat. That is the thing that worries me on your resolution. I thought you had a wonderful idea there. If we could clarify that situation so that the percentage of electors would be based upon the number of voters rather than the number of citizens, that would be wonderful.

Senator SMATHERS. I agree with you, but as I understand it, what we had in mind was that it would be based on the total number of votes cast. In other words——

Senator KILGORE. But the representation given to those votes would be different.

Senator KEFAUVER. Have we not got off on the wrong premise on this? The electoral college amendment, Senate Joint Resolution 19, refers to a method of final selection of the President in the November election and does not have any reference to the primary which is the subject which Senator Smather's amendment would also be concerned with.

Is this not the situation? The one dividing up the electoral college refers only to the general election. The division is based on the total number of votes cast for the Democrat and Republican candidates in the State. If in Tennessee the Democrats got 60 percent of the popular vote, they got 60 percent of the electoral vote. The presidential primary resolutions here have no immediate reference to the electoral system. It simply provides nationwide each party on a popular basis or the Congress may provide nationwide each party on a popular basis may provide for the nomination of candidates. So the electoral college matter is not involved.

Senator KILGORE. And the electors shall be divided up among the candidates percentagewise based upon the total number of votes cast in each State for each candidate?

Senator KEFAUVER. Not in the primaries.

Senator SMATHERS. I had it in my original primary bill, but it is the same principle. In other words, if it is wrong in the primary, it must also be wrong basically in the general election. Maybe it ought to come out of the primary.

I am not at all wedded to the idea, but it seems to me we might encourage people to take it by giving the small States that right.

Senator KILGORE. The whole trouble is, we have 48 different qualifications for electors in each 1 of the States. For instance, in my State of West Virginia, we will cast twice as many votes in the general election as the State of Virginia next door; yet they have 12 electoral votes and we have 8.

Senator KEFAUVER. Senator Smathers, one year you filed a resolution without this in.

Senator SMATHERS. That is right. I have changed back and forth in an effort to pick up a little support. I have not done any better, and I am willing to drop it out of the primary. I thought if the theory was good in trying to get the small States to go along with the change, that it might also appeal to them in the primary.

It is apparently not too good an idea. I am perfectly willing to drop that provision of it.

Senator KILGORE. There is one other feature that worries me about these plans. There is a possibility that you might get a Republican President and Democrat Vice President. If you will remember the ancient feuds in the early days when Congress elected the President and the Vice President, the man who got the highest number was President and the next highest was Vice President. We did have some celebrated political feuds which did not benefit the Government too much.

Senator SMATHERS. I have refined my proposals where they apply only to the President and let the convention handle it. It appears there will have to be some sort of a convention after the primary. The present intent is to pick out who they want to have run for Vice President. They do it anyway. Obviously, it has to be somebody whose policies and thinking is in agreement with the President.

So I have eliminated from the original proposals the fact that there would be a primary for the Vice President. It pertains only to the presidential candidates. Then at the convention they can pick out somebody who is compatible with the President and who he wants.

The CHAIRMAN. Do you think people can be trusted? In New York State they elect a Republican for Governor and a Democrat for Lieutent Governor. What is wrong with that system?

Senator SMATHERS. I think it would breed a lot of difficulty if we had a Vice President who was of one party and a President of another party or even within the same party if they were not of the same political thinking. It would engender a lot of ill feeling and chaos would result.

After all, the Vice President is actually supposed to succeed to the Presidency in the event of the President's death and he presumably is supposed to carry on the policies which the people approved of when they elected the President.

Senator KEFAUVER. I just want to say under Senate Joint Resolution 19 the electoral college amendment which I have here, it would not be possible to elect a President and Vice President of different parties. They would be the same party.

STATEMENT OF HON. GEORGE A. SMATHERS, A UNITED STATES SENATOR FROM THE STATE OF FLORIDA

Senator SMATHERS. I wish to commend you on your interest in this problem and the fact that for many, many years you have been one of the prime movers in trying to bring about an effective improvement in the elections procedures helping to strengthen and to give the people a greater voice in the election of public officials.

The CHAIRMAN. Thank you, Senator.

Senator SMATHERS. I think all of us are pursuing the same goal. You have provisions for direct popular vote and Senator Kefauver and I and Senator Douglas and others have the division by proportion on the electoral college.

One other difference which I have now in my proposals which distinguishes them from Senator Kefauver's is that I have had them at one time in separate bills. I have put them all in Senate bill 85. I have 3 proposals rather than 2.

The first proposal pertains to the primary, the necessity for a primary. The second proposal has to do with the change of the electoral college system in the general elections, and the third proposal has to do with not permitting a Vice President who succeeds to the Presidency to serve if he succeeds to the Presidency where there is 2 years and 90 days remaining of the term.

It has been my opinion that people do not want a Vice President to serve what amounts to a full term of the President. They may run and get full support or elect someone else.

Senator KILGORE. While you are on that point, if we are going to straighten this situation out, why not modernize the whole picture? Add to it about 3 Vice Presidents, 2 of whom shall be executive assistants to the President and 1 to preside in the Senate and be the liaison man.

I said that advisedly. Every Vice President who succeeded to the Presidency by virtue of the death of a President in time of any great stress has had a great deal of trouble because he did not know what his predecessor had done.

We have a man up at the White House, a special assistant to the President, and all that sort of thing. Here our great corporations have as high as 25 vice presidents, each one with assigned jobs to assist the president. If we would amend the picture on the President, our Presidents would live longer.

Incidentally, we might be more sure of succession of policy during the administration than we are now.

Senator SMATHERS. I think certainly the President needs more help and there should be a better division of his power.

Senator KILGORE. The man who succeeds him should know what is going on.

Senator SMATHERS. There have been only three Vice Presidents who succeeded to the Presidency who were elected of their own right. Most of them disappeared off the pages of history and did not amount to too much, politically or historically speaking.

Within the past 85 years there have been 3 amendments to the Constitution of the United States which pertained to election procedures: (1) Amendment 15, in 1870, right to vote to all regardless of race or color; (2) amendment 17, in 1913, popular election of United States Senators; (3) amendment 19, in 1920, provided for woman suffrage.

At the time each one was adopted there was much criticism of it and considerable doubt about it; nevertheless, each of these changes has broadened and strengthened the democratic processes by allowing more of our citizens to vote, and bringing to the people a larger control of their Government. All of us know that science is giving us new and better ways to reach the people, and it is up to the Congress to provide new and better ways for the people having thus been reached to properly express themselves.

As a result of the tremendous development in radio and television techniques, it is not inconceivable that candidates for the Presidency in the future will be able to sit on their front porches and talk about the issues to every citizen in the United States, irrespective of where he may live.

The candidates of the future can reach the people of the Nation more easily and more fully than ever before. If democracy is good, if the voters are to be supreme, and I am sure that all of us believe that

democracy is good, then it is up to us, the Representatives of the people, to answer the demands of the people that they be allowed to more actively participate in the selection and election of public officials, and to bring about certain electoral college changes which would result in a strengthened democracy.

Specifically, what are some of the changes the people want? First, they believe there should be a change in the method of selecting candidates to run for the office of President. They believe that the time has long since passed when we should do away with the ancient and undemocratic method of selecting presidential candidates at national conventions.

You ask, How do I know the people want this change? Well, there are many reasons. First, the number of letters which have come into my office from every State in the Union in favor of the nationwide primary bill is amazing. I have never received letters, either in such quantity or enthusiasm, about any other subject during my 7 years in the Congress as I have on this nationwide primary proposal.

Practically all of the major newspapers, as well as most of the smaller ones, and practically all of the important weekly magazines, have within the past 2 years written articles or editorials urging the Congress to take up immediately the problem of modernizing and changing the present methods of selecting and electing candidates for the Presidency of the United States.

In July 1952 the American Institute of Public Opinion, otherwise known as the Gallup poll, revealed that in a nationwide poll over 70 percent of the voters questioned favored a nationwide primary for the selection of Presidential candidates within the parties, whereas only 12 percent were opposed to it. The others were undecided.

Certainly when over 70 percent and upward of our people indicate a desire for a particular piece of legislation, it would not be incorrect or unwise for Members of Congress to bestir themselves to answer the needs and desires of that majority. To do so would not only be good politics but good representative government.

In January 1953 Mr. Gallup again ran a poll, and this time it revealed that 73 percent were in favor of a nationwide primary to select party candidates, as well as change the electoral-college system. They also favored a new change which would provide for a Presidential election at the next regular congressional election whenever the Vice President succeeds to the Presidency and there are more than 2 years of the deceased President's term remaining.

Also, over 70 percent of them were in favor of changing the present electoral-college system.

Now, Mr. Chairman, Senate Joint Resolution 85, which we have before us, is designed to bring about these changes and do so properly and legally by constitutional amendments. I do not believe there is any need for me to argue to this distinguished group of able lawyers and legislators and the need for proceeding by constitutional amendment. I think that is too clear even for argument.

Section 2 of this bill provides for a nationwide primary. In 1913, in his first annual message to the Congress, President Wilson said—and I quote:

I turn to a subject which I hope can be handled promptly and without serious controversy of any kind. I mean the method of selecting nominees for the Presidency of the United States. I feel confident that I do not misinterpret the wishes

or the expectations of the country when I urge the prompt enactment of legislation which will provide for primary elections throughout the country at which the voters of the several parties may choose their nominees for the Presidency without the intervention of nominating conventions.

The CHAIRMAN. You know President Truman also endorsed it last year?

Senator SMATHERS. Yes; he did.

Since that time the awareness on the part of the people of the United States for the need for such a change has rapidly increased. What the people saw and heard on their television and radio sets last July, coming out of the conventions at Chicago, they did not like. As a matter of fact, it frightened some and disgusted others. It was hard to believe that in this, the world's greatest democracy, this spectacle of a nominating convention could go on.

The only thing they could agree on was that the conventions were held in the right place—the stockyards.

Several months ago a speaker before the Chicago League of Women Voters commented, and I quote:

> Ninety percent of the American people are politically illiterate. Political machines today run our parties because the people let them do so. We, the people, let them name for us one man on the ballot just as Joseph Stalin gave to his people only the choice of one name.

That statement, Mr. Chairman, may sound a bit extreme. I do not agree that the American people are politically illiterate. But, Mr. Chairman, we do have to admit that within our parties the average voter has little voice, or choice, or influence in determining who is to be his candidate for President.

The voter, when called to go out and vote in November for his candidate, votes for a candidate that has been handpicked for him and about whose selection he has known nothing and had nothing to say. The choice for his party's candidate is thrust upon him, and just as he has had to accept a handpicked party candidate, his opposite number in the other political parties has had to do the same thing.

How much pride can be taken in the supremacy of our system over that of the dictatorship when we give the right to vote to the people, but only on candidates that have been previously selected and handpicked for them through the machinations of party leaders and backroom bosses. The people of America saw the archaic and disgraceful method of selecting Presidents at the conventions.

It is a source of amazement to me, and I am sure to others, that as good candidates as we had last year could spring out of that imbroglio at Chicago—both Democrat and Republican. There is no doubt but what the people of the United States did not like what they saw going on at the conventions. They do not believe that it is good democracy to leave the selection of presidential candidates in the hands of a few haggling, ambitious bosses and professional politicians.

The choice of the President of the United States is too important to leave solely in the hands of politicians. For that reason, it is incumbent on us, the people's representatives, the only ones who can give expression to their desire on this matter, to act to satisfy their wishes in modernizing and streamlining our method of selecting candidates to run for President of the United States by adopting provisions calling for nationwide presidential primaries.

The second section of the bill which is under discussion today, if adopted, would meet the urgent request.

The third section of the bill provides for a change in the present electoral college system. The evidence of the people's desire for a change in this particular is again revealed in letters, newspaper editorials, and polls. Each of these proves there is an overwhelming desire on the part of the American people to do away with the archiac electoral college system which three times (Adams in 1824, Hayes in 1876, and Harrison in 1888) in its history has permitted candidates with fewer popular votes than their leading opponents to become President.

In 1824 Adams had less votes than his principal opponent. Yet he won the election. It was true in regard to Hayes in 1876 and Harrison in 1888.

For you and me as responsible legislators to permit to continue such a system is to evidence a cynical and callous indifference to the welfare of this country and the wishes of the American people.

In this legislation which we have before us today, I have set out provisions calling for a constitutional amendment which would modify the present operation of the electoral college system along the lines recommended by former Congressman Ed Gossett of Texas and former Senator Cabot Lodge of Massachusetts. This amendment would divide the electoral votes of each State in proportion to the popular votes received by each candidate in the State. This is a provision which has already once passed the Senate but died in the House. Its enactment into law is now long overdue.

That is the same provision which the able Senator from Tennessee has recommended, also.

The fourth section of this bill provides for the election of a President and Vice President to be held at the next succeeding regular congressional elections, whenever a President dies or is removed who still has more than 2 years and 90 days remaining of his uncompleted term.

In March of this year the Gallup poll showed that 74 percent of the people were in favor of this change.

Again the editorials, letters, and polls reveal that the people believe that when the Vice President becomes the President because of the death of the elected President and there are more than 2 years and 90 days remaining of the elected President's term that he, the Vice President, should get the endorsement of the people before serving as President any longer than 2 years.

It has been suggested that almost immediately after the death of a President a new election to determine a successor to take place, but it is not practical to have an election before the next succeeding congressional election. In other words, it is clear the people are not anxious for the Vice President to serve as President for longer than 2 years unless subsequently elected in his own right to serve as President. They believe this desirable because while some Vice Presidents have made good Presidents, some have not.

Of the 7 Vice Presidents who became President by virtue of the death of the elected President, only 3 (Theodore Roosevelt, Calvin Coolidge, and Harry Truman) were subsequently chosen to be President in their own right and then only for one term. It is clear that under present rules and law too much is left to chance.

Senator KILGORE. In the case of both Coolidge and Truman, each one said they would not run for another term. So the question of how strong they were was not put up to the people. I do not remember whether the same thing happened in the Roosevelt case or not.

Senator SMATHERS. I do not, either. I recall in reading, that each of them had made a statement they were not going to run.

It is well understood that the people today have very little to say when it comes to selecting the candidate for Vice President. Most often the Vice President is picked by one man or one group of men to satisfy certain cliques or special-interest groups, or the ego of a certain geographical area.

Usually, the average voter does not take much cognizance of the Vice President even during a presidential campaign. Most all of the attention is directed toward the presidential candidate.

A vice presidential candidate wins only if the presidential candidate is strong, well supported, and wins. The Vice President is ordinarily not a particularly well-known figure. As a matter of fact, most of the quiz programs have as their favorite question the one which asks the listener or viewer to name the Vice President under President Harding, or Wilson, or Jefferson, et cetera.

The Vice President is sort of like a caddy for a good golfer. During the course of the match the caddy does a lot of work, but it is the golfer who makes the shots, gets the crowds, makes the headlines, and whom everyone knows. The job of the President is too important and too big to permit any man to attain that position and have it for any length of time without being elected to it and endorsed by the voters.

This change would be brought about by section 4 of this bill through a constitutional amendment.

These three points are provided for in the bill presently under consideration. Each of them, even though they win the approval of the Congress, would still have a long way to go before they would become law, for this procedure will require ratification by three-fourths of the State legislatures.

Now, Mr. Chairman, I am not wedded to any of the language in this particular bill. Nor do I claim to be the sole parent of the ideas developed in this omnibus proposal. However, I do think the ideas are good, and wish the Senators and Congressmen would join together and do something about them. I know that the vast majority of our citizens favor these changes.

I do think it is the responsibility of this committee, this Senate, and this Congress, to answer the wishes of the American people by considering these problems and reporting out some legislation which conforms to their wishes. Something needs to be done about these problems and I am happy this committee realizes the importance of this subject of selecting and electing presidents. I wish to join many others in congratulating the chairman and his committee for giving it their attention.

The CHAIRMAN. Are there any questions?

Senator Kefauver?

Senator KEFAUVER. I want to congratulate Senator Smathers on a very enlightening and excellent statement.

First, I want to ask him this question: In connection with the proposal to select party nominees for President and Vice President by

popular vote, if during the last year the sentiment as reflected from letters and editorials you have received and read have not increased very greatly?

Senator SMATHERS. Very greatly. Since the nominating conventions in July when the people had an opportunity to see how their President and Vice President were actually selected, I think countless thousands of them were disgusted with what they saw.

The CHAIRMAN. I would use the word "shocked."

Senator SMATHERS. Yes. And the sentiment for a nationwide primary increased very greatly after those conventions.

Senator KEFAUVER. I have received a lot of letters about it, too. I asked the Senator if that comes from all parts of the Nation, Democrats and Republicans?

Senator SMATHERS. From all parts of the Nation, and it knows no party lines.

The CHAIRMAN. Gentlemen, I have got to go to the foreign relations meeting. I am asking Senator Kilgore to preside for the next half hour.

Senator KEFAUVER. Does Senator Smathers also feel that while it is a good idea to encourage more States to have primaries, that it is going to be physically and humanly impossible to ever get to a uniform or a satisfactory solution through State legislation because of difference of laws and various and sundry other reasons?

Senator SMATHERS. I very much agree with the Senator from Tennessee that it has to be a Federal problem so that we can reconcile the various differences in States so we do not have one State run its presidential primary possibly a week ahead of all the rest and thereby give to their favorite son candidate an undue popularity advantage and newsprint advantage which he otherwise would not have. This primary has to be coincided so it occurs on the same day and under the same rules and regulations in every State.

Senator KEFAUVER. Senator Smathers, do you not feel that doing something about the three points you have here in your resolution is one subject that the people of the United States are more interested in than any other by way of constitutional amendment at the present time?

Senator SMATHERS. I agree with you, Senator. Everywhere I go, and I do not get around too much or make too many speeches, but invariably just the little I have been doing, people inquire of me how I am getting along, what progress is being made. That happens irrespective of where it is; sometimes in New York, maybe in Texas or Alabama, and certainly my home State of Florida.

I observe from all over the United States in every walk of life and irrespective of political parties that people are primarily interested in this particular problem of improving the election machinery.

I might say that even in our State of Florida the high school debate subject for next year is the presidential primaries. I understand that is going to be the subject in many States for the high school debate teams next year, evidencing that the people are thinking about it and want something to be done about it.

Senator KEFAUVER. We have been complaining for a long time in this Nation about the small number of people who vote in presidential elections and in other elections, too, for that matter. Does not the Senator feel that if we had a presidential primary system and also

dividing the electoral college where everybody's vote would count and where it would be incumbent upon every candidate, both for the nomination and in the general election, to make his plea and campaign in every State of the Union, that we would have a much bigger vote and a much larger participation in the election process?

Senator SMATHERS. I certainly do. I do not think there is any doubt but what if the people had the right to participate in the selection of their candidate who is going to run for President, they would come out in greater numbers. They would take much more interest and certainly the Senator well knows in his travels last year when the various presidential primaries were being held, he in effect was making teamwork. He was going into States where he had never been.

Certainly he went into towns where he had never been before. He was giving those people in Nebraska and in Maine and places far away an opportunity to see him and talk with him and find out what he was thinking and what they were thinking. It was a good brand of democracy.

It that is done all over the Nation, it is bound to improve and strengthen. It is bound to improve participation in democracy and increase the interest of everybody in these elections.

Senator KILGORE (presiding). I have one question I would like to ask both of you gentlemen in particular. I am wondering what the solution would be to this. Senator Smathers, you spoke of modern television and things like that. With my limited experience on television programs, I have some idea of what it would cost on a 15-minute nationwide hookup or if it were reduced to film and played through the local stations.

In other words, in my humble opinion, political campaigns are becoming more and more costly by reason of the very things you point out. If men can announce for President and Vice President and get their names on the tickets, I am just wondering how the campaigns are going to be financed.

One of the bad features of political campaigns is this: If an organization gets control of a State, they will raise a jackpot to put their picked candidates over in the primary. The money is supposed to be raised from general elections to be used to dominate the primary. I am just wondering whether these candidates are going to be able to finance their appearance before the people and if we are setting up a system where only a very rich man with some very rich backing can afford to run or whether we are setting up a system in which a man will get a few highly preferred backers who are willing to finance his campaign and he can beat the opposition.

I would like to get the reaction of both of you to that in this record.

Senator SMATHERS. Of course, I must agree that the expenses are getting outrageous and the day may well be upon us when we are going to have to adopt a system something like the English have where the State puts up a certain amount of money and limits every candidate very closely to staying within that limitation and requiring that the candidates operate like they do in South Carolina today where they go around together and share the same platforms and the same television rostrums and things of that nature.

On the other hand, to tie this in with the primary, I do not really believe the fact we are advocating a nationwide primary—that this

matter of cost has too much to do with it. That matter of cost is with us, anyway.

Where we now have primaries, where we run in our own State, we are faced with these costs even though we do not have a primary. We have the costs in election and obviously the costs that are going on today in these nominating conventions, the costs which are going out to party workers, and things of that nature, is something nobody knows, except we know it is tremendous in many cases.

Senator KILGORE. Pointing to England, the Government politically controls radio and television there as it does in Australia and New Zealand and other places where the government controls those things. They are able to handle that which is frankly the most expensive item of cost, those two media.

Senator KEFAUVER. May I comment also on the very important and pertinent question which you have raised relative to the cost of campaigning?

Senator KILGORE. I think it is highly practical.

Senator KEFAUVER. It is a very practical problem and one the Congress and the people have to cope with. I think, frankly, we need a restudy of the whole matter of financing and the laws relative to the financing of political campaigns.

As Senator Smathers pointed out, that is not involved directly in these constitutional amendment proposals; they are matters that Congress can handle as legislation. I think that immediate study ought to be made into the whole question.

I submit that a poor man would have a better opportunity of being considered as a nominee of his party under a primary system than he would be under the present convention system. I say that for the reason that a man without very much financial means can at least get up enough money to get around to the various States, make public appearances, and the people there will find methods of allowing him to get his message to them.

I think, also, the radio and television and newspapers are to be commended upon seeing that each candidate in a primary effort does have a chance of getting his views over without having to buy space.

If I may make a personel reference, I do not think we ever bought any television time, very little radio time, and no newspaper advertisements. Yet the radio and television people that conduct forums are very generous in bringing in all the candidates to participate, which does not cost the candidate anything.

Then a great many newspapers will run parallel columns of what each candidate stands for. So I think from the financial viewpoint it would be much easier for a poor man to run in a nationwide primary than it would be to try to operate under the convention system.

Senator KILGORE. In regard to South Carolina, I think sometimes these media of information should not be permitted to sell time but instead should, as a public service, permit forums as a public service as a part of their license which is extremely valuable to them. If they could not sell the time, and did have the forums, then I believe you would get a pretty decent sort of a primary election.

There are some questions on the bill I would like to ask. On Senate Joint Resolution 19 there is no provision made for any question of electing even a minority President. You might then elect a minority

President. I think an attempt is made in your bill to get around that, but I sometimes wonder if we should not say anybody can be elected if he receives a certain percentage, say 40 percent of the total electoral vote, otherwise the election would be thrown into the House.

What do you think of that?

Senator KEFAUVER. Mr. Chairman, in Senate Joint Resolution 19 of which I am the principal sponsor, you are correct in that there is not any assurance here against electing a minority President. I think in section 2 of Senator Smathers' bill there is some provision. It is a difficult problem to cope with.

Senator SMATHERS. We have it in ours. You could add 2 or 3 lines and provide for it if the committee decided it was a good thing.

Senator KILGORE. At line 9 you provide:

> The person having the greatest number of electoral votes for President shall be President, if such number be at least 40 per centum of the whole number of such electoral votes. If no person has at least 40 per centum of the whole number of electoral votes, then from the persons having the two highest numbers of electoral votes for President, the Senate and the House of Representatives sitting in joint session shall choose immediately, by ballot, the President.

That throws it into the House.

Senator SMATHERS. I have changed that where it goes into the House or the Senate in the latest one.

Senator KILGORE. On page 4 there is another question that worries me.

Senator KEFAUVER. Which resolution is that?

Senator KILGORE. Senate Joint Resolution 8. That is in line 16, page 4, which provides:

> No person shall be a candidate for nomination except in the primary of the political party of his registered affiliation, and the name of each such candidate shall appear on the ballot of that party in all of the States.

A number of our States do not register political affiliations. Some of them you do not even register. For instance, in the State of Nebraska, except in the larger cities where the cities provide for registration, there is no registration of voters at all. Wisconsin does not register your party. Washington does not register the party. There is no way of determining to what party anybody belongs.

Senator SMATHERS. That would have to be refined. When a man finally decides he is going to run for Governor or for President, does he not finally announce, "I am running either on the Republican or Democratic ticket"?

Senator KILGORE. Yes, but this shows his registered affiliation.

Senator KEFAUVER. You could strike out the word "register."

Senator KILGORE. You would have to say "of his announced affiliation."

Senator SMATHERS. Obviously, he would have to announce on some party. When people go to vote for him they would not be permitted to vote on one side and then the other. That would have to be refined to state the candidate would have to announce on what party he was going to run and had to run on that party.

Senator KILGORE. Senate Joint Resolution 8, page 4, says:

> A political party shall be recognized as such for the purposes of any primary election held pursuant to this article if at any time within four years preceding such election the number of its registered members shall have exceeded ten per centum of the total number of registered voters in the United States.

For instance, under the laws of West Virginia, any party receiving in an election in which a governor is elected less than 10 percent of the total vote cast is stricken from the rolls of political parties and cannot again get back on unless by petition signed by 10 percent of the voters, registered voters, of the State. We did that to avoid splinter parties. It has worked very satisfactorily.

As a result of that I think we have dropped off about 6 parties that formed which had just a smattering of votes and have gotten it down to a 2-party government, and it has strengthened the government by so doing.

I think we ought to think about that just a bit because that would compel us to put the Communist Party on the ballot, to which the voters in my State would object.

Senator SMATHERS. They could come on, but had they not gotten 10 percent of the whole United States, then they would not.

Senator KILGORE. They might not have 2 percent or 1 percent, but still that would get on. I tried one case down there where a man fraudulently tried to get the Communist Party on the ballot. I presided at the trial of the case. He was convicted. It is a pretty hot subject down there. I am wondering about that one feature.

Senator SMATHERS. I agree with Senator Kefauver on this, that it would be very difficult for us to put all the refinements of having the presidential primary in the constitutional amendment. It ought to be simpler than we have it here. Then it should be left to the Congress thereafter to write some laws and particularize on the points you are talking about, take care of things of that nature.

Senator KILGORE. I think we should not prescribe things in the constitutional amendment that will bind the hands of Congress from writing a workable election.

Senator KEFAUVER. You will notice in Senate Joint Resolution 17 that it is simply provided that Congress shall have the power to provide for the nomination of candidates for President and Vice President and that Congress will wrangle with that problem when the time comes.

I think, frankly, after the authorization is passed by constitutional amendment, that there will have to be a lot of trial and error before we finally arrive at a good, workable process.

Senator KILGORE. I am wondering if a very simple bill could not be drafted which would say, just prescribe that and there shall be an election and that Congress is given the power to draft legislation to put that desire into effect. That might simplify the whole procedure. Once the States ratified that, they would be granting to Congress the right to write the necessary legislation.

Take the Volstead Act. We simply said that Congress shall have the power to legislate and prohibit the sale of intoxicating liquors. Then a constitutional amendment on which the Volstead Act was based. Then the Volstead Act wrote the details of what the law was and prohibited it and set out the methods of enforcement.

Senator KEFAUVER. It will be noticed in Senate Joint Resolution 17 that it does not make it mandatory that Congress pass a law setting it up; it says only that it shall have the power to.

Senator KILGORE. When you get down to it, the Constitution is what I call an inclusive fence which fences in the powers the States convey, the rights the States give to the Federal Government. The

States are rather an exclusive fence unless they, by a three-fourths majority, grant powers.

The amendment should be simplified as much as possible.

Senator SMATHERS. I thoroughly agree with you and with what the Senator from Tennessee said, that it should be just as simple as possible, possibly a sentence or two authorizing the Federal Government to bring this about.

Then subsequently, the Congress can sit down and write out these laws. They are going to have a lot of trial and error before we finally write something that is going to satisfy every State.

Senator KILGORE. One man at one time, I think, gave the best definition of the United States Government I have ever read. He said the Constitution was a fence around the field granted by the States as a Federal domain with powers. All not included in that fence was retained by the States.

I thought that was the best definition of the Constitution I had ever heard. That is the way I look at the Constitution. You can enlarge that field by permission of the States by taking in some additional territory.

Is there anything further?

Senator KEFAUVER. We have one witness here who has given a great deal of study to this general problem.

Senator KILGORE. It is getting close to 12 o'clock. The chairman asked me to recess over until 3 this afternoon and finish up all the evidence then.

Senator KEFAUVER. We have only one other witness. It probably would not take him too long.

Senator KILGORE. I think he wanted to hear that witness.

Senator KEFAUVER. Mr. Childs says he can come back at 3.

Senator KILGORE. I think Senator Langer would like to hear his testimony.

Senator SMATHERS. It may be impossible for me to be here promptly at 3. I am not needed. We are having this Continental Shelf hearing. That is quite a problem. We ought to have it up here for your lawyers.

Senator KILGORE. We will recess, then, until 3 o'clock and meet back here then.

(Whereupon, at 11:45 a. m., a recess was taken until 3 p. m.)

AFTER RECESS

Senator KEFAUVER (presiding). The committee will come to order. Senator Langer has asked me to preside over the subcommittee hearing this afternoon.

The committee and I personally am very glad to have Mr. Richard S. Childs with us this afternoon.

Mr. Childs, whom I have known for quite a number of years, has long been a leader in movements for better government. He is a businessman, having served in executive positions with various corporations. He was general manager of the Bon Ami Co. and is now a director of that company; director of the American Cyanamide Co., and many others. He is the originator of the council-manager form of municipal government and the short-ballot movement. He is chairman of the executive committee of the National Municipal

League and has been making an intensive study of election reforms and primary problems.

Mr. Childs, we are glad to have you with us.

Mr. Letchworth, administrative assistant to Senator Smathers, is also present. We will be glad if you will participate in this discussion representing Senator Smathers.

Also, Mr. Cobb will be a witness.

All right, Mr. Childs, if you will give us the benefit of your statement.

STATEMENT OF RICHARD S. CHILDS, NEW YORK CITY, RE SENATE JOINT RESOLUTION 17, DIRECT PRIMARY AMENDMENT

Mr. CHILDS. I have reduced it to a page. That is, what I have learned primarily from the study of the reports that have been gathered thus far by the American Political Science Association reporting the procedures and actualities of the selection of delegates in the two parties in all the States in 1952.

This material is not published yet, but as a member of the committee I have been privileged to see it and have read it as reported in about 22 States. Out of that I offer my own interpretation.

The procedures are diverse and usually too cumbersome to be operable by public opinion.

The procedures range from pyramids of local conventions culminating sometimes in State conventions with over 1,000 in attendance to impracticable schemes for direct primaries which are long neglected leftovers of a movement which died young 40 years ago.

The selection of delegates to the national conventions is in many cases entangled with extraneous issues of State politics, regional factionalism within the parties, and the self-interest of candidates for gubernatorial and senatorial offices.

The timing of the opportunity for direct action by voters to influence the delegation on the selection ranges from 2 years before the presidential year down through caucuses and conventions in January to April; in most cases the voters are thus called on to make themselves heard months before the issues are joined, before important candidates have appeared and before the voters have had opportunity to develop informed opinions.

The candidates for President are sometimes unwilling to enter primary contests in States where they may not win and the primaries become the scenes of petty political finesse.

The party managements in the States have immense opportunities to thwart rank-and-file sentiment tempered only by the necessity of catering successfully to the public by nominating a strong candidate.

The procedures are frequently informal, sloppy, unregulated, and corrupt as disclosed in contests before the credentials committees which are sometimes amoral themselves.

In short, the ramshackle conditions of the procedure require drastic intervention such as that facilitated by Senate Joint Resolution 17.

Reform under Federal pressure for uniformity should include quick, easy, and inexpensive methods of getting candidates' names and proposed pledged delegates on primary ballots, the latest feasible primary date (June) to catch matured popular opinion, the right of State committees (rather than irresponsible short-lived conventions)

to submit uninstructed candidates for delegations, proportional representation in delegations to national conventions, and separation from State politics.

A model State presidential primary law is in preparation in the National Municipal League as a companion to its model (State) primary system.

I recognize in this Senate Joint Resolution 17 a very simple prod to all the States to give attention to the necessity of reform and to the possibility that the Federal Government may take over a function which the States now handle, and I think it would do the situation a lot of good if that amendment were submitted.

I do not go to the question of abolishing the electoral college in my studies thus far and am content to file that if that will be helpful to you.

I am also ready to push a little further if you want to hear my pipedream of what a model State presidential primary would include. That takes over into the field of invention rather far beyond this subject.

Senator KEFAUVER. That is all right. I think it would be very interesting for the discussion and consideration of this whole problem to have your views about what a model State primary law should be. Of course, we recognize what is being discussed here is what the Federal Government should do about a nationwide primary law, but during the interim when there may be a Federal nationwide primary law, many of us hope that some of the States will adopt primary laws. I think it would be very interesting if you would give your views about that.

Mr. CHILDS. Thank you.

I submit primaries of the parties should be held about the first Tuesday in June so as to await the formulation of public opinion and not held at the very early dates that now sometimes prevail.

That no convention should be used within the States for the selection of delegates to the national conventions but that the State committee of each party acting directly should submit 6 weeks before the primary a list of candidates for the State delegation to the national convention, said list to be headed on the ballot "Uninstructed delegates."

Candidates for presidential nomination independent of that activity should be able to obtain listing on official party ballots with names in large type and a selection of a numbered list of delegates to the national convention adjacent thereto in small type by so requesting in writing 3 weeks before said primary with a deposit of $500, said deposit to be returned to the candidate if he wins 10 percent of the party vote.

That is for the purpose of avoiding the delays and the great amount of organization involved in getting up petitions. It can be done overnight. There is precedent for that both abroad and in this country.

Then the delegates shall be certified as elected to the national convention by the secretary of state. Each list being represented in its numbered order in proportion to the vote cast for each list. If only one delegation qualifies for a place on the party ballot, no primary need be held and said delegation may be receipted as if elected.

I see in that answer the answers to a lot of complaints against the present operations, and I submit that it has the advantage of high

simplicity. I might say about that business of getting on the ballot by simply filing a fee, that is in Michigan law and is used to some extent.

I have a fresh, up-to-date statement of that experience, but it is also used in all the other English speaking countries of the world in place of our crazy complex of fraudulent petitions.

A member of Parliament in England puts up 150 pounds and gets it back if he gets one-eighth of the vote. No petitions, a few sponsors, and something like that. And in Canada and elsewhere, that simple device is used.

It can be invoked very quickly and brought into play after a given candidate examines the uninstructed delegation proposed by the party management. If he finds it unsatisfactory to him and wants to run against it, there is time for him to organize, get his name on the official ballot and go to a contest on it.

The idea of having the party management present a responsible official with an interval thereafter for candidates to appear in opposition after they know what the party management has decided dates back to Gov. Charles Evans Hughes when he was Governor of New York.

The idea was that party management submit names, after which there would be an interval during which counternominations could be developed by petition and carried to a contest with no primary election at all if no contest developed.

I think there is nothing in my little scheme that is completely new. It is a composite of things in effect in one place or another including that device of letting presidential candidates name their own delegates to the convention. That is in one State which I cannot call by name.

Senator KEFAUVER. I have one or two questions about your proposed model State primary law. A party organization submitting a list of uninstructed delegates, and if Candidate X wanted to run against that delegation, he would get his own delegates?

Mr. CHILDS. He would name them himself.

Senator KEFAUVER. Might it not be that some voters would vote for the uninstructed delegation rather than Candidate X's delegation because the uninstructed delegation having been named by the party organization, would be better known and would have more appeal so that might not Candidate X be placed at a disadvantage?

Mr. CHILDS. Candidate X would have to get the best delegates he could, but I do not think that the interest of the people goes very much to the naming of the delegates. They jump over all that directly to the question of who they want for President. That is the one thing on which the whims of opinion blow strong enough to make any apparatus work.

On the other hand, there is nothing to prevent Candidate X from nominating some of the same persons who are on the uninstructed delegation, but in that case it should be provided that it is the vote for the slate that counts and not additive by reason of being on two slates. A man might be higher up on one slate than on the other in that numbered order and would be reached in one case but not in the other in the proportioning of the seating of the delegates.

Senator KEFAUVER. Would your proposal make it mandatory that the delegates thus elected vote for the person to whom they are pledged?

Mr. CHILDS. No, only insofar as they have their bargain with their candidate, whatever that bargain may be.

Senator KEFAUVER. Do you not think people would be entitled to some protection on that score? If they voted for the delegates, would not the people be entitled to know that the delegates were going to vote for that candidate?

Mr. CHILDS. Certainly. The candidate in choosing those delegates presumably will choose people who are going to be loyal to him up to some reasonable point. At any rate, he is the man to lose if he does not single out a list of delegates who will be loyal to him.

Senator KEFAUVER. Do you not think by law there should be some obligation on the part of the delegates to vote for that candidate for a limited time, anyway?

Mr. CHILDS. I have not put it into my scheme because it seemed a difficult thing to draw. The contingencies that arise are many and various. The candidates may themselves release such men. Why not leave it as a matter of present and flexible arrangement between the candidate and his people? You could have a provision for the release of delegates from their pledges as one by one they turn out to be the lowest in the vote at the national convention and automatically release, irrespective of candidate X.

Senator KEFAUVER. Various States have different methods about the release. Some that fail to get 10 percent of the convention votes, they automatically release.

Mr. CHILDS. There is no objection to that principle.

Senator KEFAUVER. I think it might be well to get in the record at this point a brief, off-the-cuff summary of what the various primary laws of the United States provide, and this will not be accurate in detail but it might be helpful if this record is read by students as it will be debated in the schools of the Nation later on.

The State of California provides that in their primary a candidate get a list of delegates. The delegates are under his name. The voter votes for the name of the candidate. The delegates are obliged to vote for that candidate up to a point.

The State of Oregon, if anybody runs, the selection is of the delegates, but along with the vote for the delegates the candidate's name is also on the ballot. The delegates are obligated to vote for that candidate who won up to a certain point. That, of course, might result in a candidate winning and delegates winning who are hostile to the candidate.

In the State of Nebraska they have a popularity contest but delegates are not obligated, at least unless it has been changed in the latest legislature, and there were some changes made, to vote for the candidate who won the majority of the votes.

In the State of Minnesota your candidate gets his list of delegates and there is some obligation.

In the State of New Hampshire there is a popularity contest and also each candidate or delegate is given three options. He can say that he will be uninstructed, he can say he is favorable to a certain candidate, or he can put on that he is pledged to a certain candidate.

So you might get any kind of delegates in New Hampshire. There is no obligation to vote for the man who gets the most.

I think the best of all of the laws is that of Wisconsin at the present time. Wisconsin's law is that a candidate gets two delegates in each congressional district. Then he has a certain number of delegates at large, depending on how many have been allotted by the political party for that State. It is possible in Wisconsin for a presidential candidate to win at large and lose some of the congressional districts.

I think that is a very good arrangement because it does break it down. A candidate may be very popular in part of the State and may not be popular in the other part. So that is more clearly reflecting the sentiment of the voters. Then those delegates are obligated to vote for the candidate up to a certain point.

In Maryland the candidate gets his list of delegates. There is some obligation to vote, but it is only a moral one. Usually, in Maryland I think they do vote for the fellow who won the popularity contest on the first ballot, anyway.

Pennsylvania, West Virginia, New Jersey, and Illinois—it is advisory only and there is not any particular obligation.

Alabama votes for delegates and the delegates state who they are for. There is no popular vote for the nominee himself. Those delegates are obligated up to a point to vote for the man they announce they are for if they get elected.

Florida has an unusual law. Under the Florida law they have a statewide contest for the candidate, a so-called popularity contest at a certain time.

What is that date, Mr. Letchworth?

Mr. LETCHWORTH. The first Tuesday after the first Monday in May. Then on the third Tuesday of May the delegates are elected and the delegates announce who they are for.

Senator KEFAUVER. So the idea of the Florida law is to find out in the first contest who the most popular candidate is and then the people 2 weeks later can select delegates. Having been given the will of the people 2 weeks previous to that, they will be more or less guided by what the people had done in the first election. It has some advantages.

I think of all the State laws I know of, the Wisconsin law is the best one. It is somewhat like the one you have suggested, Mr. Childs.

Mr. CHILDS. It is another way of getting a proportional vote, somewhat by going down the list of proportional representation because the district lines may have a pretty arbitrary effect upon the balance and may not run true to the popular vote.

Senator KEFAUVER. It is a practical way of dividing up the delegates in a State which I think probably is in the public interest. You might have in a State candidates X and Y running very close. Candidate X might get all of the votes. Under the Wisconsin system several districts might go for Y, in which event he would get the votes for the congressional district.

Mr. CHILDS. At least it breaks the solid vote on the all-or-none basis which has among other effects the deterring of many candidates from going in. If they could always hope to get a few delegates on a proportional basis, there would be less temptation to stay out of contests they do not hope to win.

Senator KEFAUVER. That is right. It assures that more candidates will be in more primaries. I forgot to mention the Ohio law.

In Ohio they have a system where a person runs as a delegate and he announces his first choice to be one person and the second choice someone else which is printed under his name. The vote is for the delegates and not for the candidates. But the Ohio system does bring out a pretty good vote in the primary.

Mr. CHILDS. Those laws that put the delegates individually on the primary ballot result in very long lists of names. The alternates go on also and the result is a huge list which runs away beyond the typical voter's memory to recall or remember or do anything very intelligent except as he follows the President's name.

Senator KEFAUVER. Take the name of the delegate and look under the delegate.

Mr. CHILDS. In a big State that may be a very long list. I have seen some ballots that are ridiculous. The test is on the ballot actually to a very large extent as compared with the very simple thing that the voters are ready to do, which is to indicate their preference for one or another of the presidential candidates.

Senator KEFAUVER. So I suppose we would agree that the present laws of Wisconsin, Oregon, and Minnesota probably have the most desirable systems?

Mr. CHILDS. Yes. But I have seen one ballot where the voter had, as I recall it, no option except to vote for Mr. Kefauver.

Senator KEFAUVER. I never have run across that, but it is a good plan, I think. I will be looking forward to a ballot of that kind.

Mr. Childs, I was very much interested in the research being made by the American Political Science Association which, as we know, is an outstanding organization composed of the outstanding political scientists of the Nation. They are making a compilation of the procedures in all of the 22 States. Will that be ready any time soon?

Mr. CHILDS. My understanding is that they hope to get it into book form some time next winter. They have not as yet got all the manuscripts of it. It is proceeding rapidly. A student could probably go to Dr. David's office at the Brookings Institute and see what has accumulated so far, just as I have. It would involve some hours of reading a total of something like 700,000 words. It is still far from completion.

Senator KEFAUVER. This will be a very interesting document when it is completed, but the report from the 22 States that have come in show a wide divergence of methods. So it is very difficult to register the popular will.

Mr. CHILDS. That is my personal interpretation. You cannot speak for the association or for Dr. David, who will presently have a chapter in that book in which he will make interpretations on a deeper basis than I have offered here.

Senator KEFAUVER. Will it be the purpose of the American Political Science Association or the National Municipal League to prepare the model State primary law you are talking about?

Mr. CHILDS. That will be done by the National Municipal League.

Senator KEFAUVER. That will serve a very fine purpose.

Mr. CHILDS. I hope to have that by October in pamphlet form.

Senator KEFAUVER. Mr. Letchworth, do you have any questions you would like to ask?

Mr. LETCHWORTH. As I understand your plan, it would not take the nomination of the President out of the hands of the convention, would it?

Mr. CHILDS. No. In fact, until I came here today, having had a notice of what was to be discussed only yesterday by a misadventure of the mail, I did not know I was to discuss a bill that involved abolishing the convention, and I am not prepared to go into that.

Senator KEFAUVER. I suppose that could not be taken out of the hands of the convention until we had uniform laws through all of the States or we had the Federal primaries.

Is there anything else?

Mr. MILLER. There is one question which fascinates me a bit, if I correctly understand you. That was that the delegates selected by the State committee were to be uninstructed. Did I understand you correctly?

Mr. CHILDS. Yes.

Mr. MILLER. I am wondering as a matter of practical politics whether that would function?

Mr. CHILDS. You mean whether they would really be uninstructed?

Mr. MILLER. In theory it sounds good, but I wonder about it as a matter of practical politics.

Mr. CHILDS. My only understanding of what uninstructed would mean under those conditions is they would not be legally bound to vote for anybody except as they might dance to their master's voice in the party management. The public would have to make its own judgment as to that. Many of them, I dare say, would announce themselves for some popular candidate. They would be free where the others are obviously tied up to the candidate who chooses them and who had his own understanding with them and his own assurance to the people who these men were going to vote for.

Senator KEFAUVER. I think, Mr. Childs, that your not having the delegates bound by law to vote up to a point, anyway, for the nominee under whose auspices they are running is a weakness of your proposal, but that is just my view. I think people, when they are voting for these delegates, look at the name of the candidate whom they are sponsoring; and that being the case, there is liable to be a miscarriage of the people's will unless there is some legal obligation.

Mr. CHILDS. Were there in the last two conventions cases of it? Betrayal of the voters in that respect?

Senator KEFAUVER. There were a lot of cases where some candidate won the popularity contest and no delegates from that State voted for the candidate at all.

Mr. CHILDS. Those were the favorite sons, were they not?

Senator KEFAUVER. No. It happened in both the Democrat and Republican primaries.

Mr. CHILDS. I have not come to that yet.

Senator KEFAUVER. I won the election in New Jersey and also in Illinois. I got 3 in New Jersey and about 8 in Illinois.

Mr. CHILDS. If you had been the man who selected those delegates, would you have had insufficient protection?

Senator KEFAUVER. I do not know; it depends. I think that is a weakness of your proposal.

Mr. CHILDS. Thank you. I am here to pick up anything like that that I can. I am a theorist in the presence of a practical plan, and I

offer my own definition of the difference between a theorist and a practical man. A theorist knows where we wants to get to and has no means of getting there; a practical man gets there and may find himself in the wrong place.

Senator KEFAUVER. I do not know that I am very practical, but I have had some experience.

We certainly do appreciate your coming here and giving us the benefit of your testimony which will be very valuable both to the Senate and to others who will study this record.

Mr. CHILDS. The ideas are in flux and preparatory, and I have tried them out on you without meeting anything disastrous so far.

Senator KEFAUVER. Mr. Cobb, will you give your full name?

STATEMENT OF CHARLES W. COBB, JR., WASHINGTON, D. C.

Mr. COBB. My name is Charles W. Cobb, Jr., and my address is 301 New Jersey Avenue SE., Washington, D. C. I am making this statement as a private citizen and not on behalf of any lobby or organization.

Senator KEFAUVER. What is your business?

Mr. COBB. I am an attorney, but at present I am unemployed.

I am a graduate of Amherst College, where I majored in political science, and the Harvard Law School. This is my first appearance at a hearing of a congressional committee.

Senator KEFAUVER. We are glad to have you. You have made quite a study of presidential primaries and problems having to do with elections and what not?

Mr. COBB. It depends on your definition of "quite a study." I have looked into the matter. I do not know that I could say I am an expert.

Senator KEFAUVER. You look like a bright, modest man, so tell us what research you have made. It is good to have an individual citizen who is interested enough to come here and make a statement to the committee, and we appreciate it.

Mr. COBB. As I have stated, this is my first appearance at a hearing of a congressional committee. I decided to make it because I feel very strongly that our Federal Constitution must be kept up to date to be of greatest benefit to the cause of freedom, democracy, and justice not only in our own country but in the entire world, because the eyes of other countries are upon us now and will continue to be upon us for many years to come, whether we like it or not.

In considering these four proposed constitutional amendments, I am assuming that President Eisenhower is either neutral or is in favor of them, because if he should actively oppose them it would probably be a waste of time to report them out of committee due to the extreme difficulty of getting the necessary two-thirds vote in both Houses of Congress. Because of his recent experience with the existing system, I suspect opposition is unlikely to come from the President.

In my opinion there is merit in all four of these proposals, and any one of them would be an improvement over the present situation. That being the case, your committee should study not only which is the best from a theoretical standpoint but also which has the best chance of passage by a two-thirds vote of both Houses. I am confident that any proposal that clears that hurdle will easily secure the approval of three-fourths of the States. Television last year insured that.

In the State of Massachusetts, where I was born, the committees of both houses of the legislature hold joint hearings. Thus, when a hearing is held on a judiciary matter, it is attended by both Senate Judiciary Committeemen and House Judiciary Committeemen. I think it unfortunate that congressional committees do not do likewise.

At present it is possible for a bill to pass the Senate and die in a committee of the House without any hearing and without a public committee vote. Duplicate hearings are one reason why the administration is reported in Time magazine for June 8 as wanting Congress to get out of town so Cabinet members will not spend so much time on the Hill.

If joint hearings were held, it would be easier to determine which one of these proposals had the best chance of getting the necessary two-thirds vote of both Houses. Or perhaps Congress would be willing to set up a special Joint Committee on Proposed Constitutional Amendments.

As a matter of strategy, faced with the present situation, your committee might consider it wise to report out all four of these proposed constitutional amendments and let the House of Representatives decide which one to submit to the States, because so far in this session the House has not been particularly active in this field. Of course, I realize that the reporting of a proposal by a committee does not insure that it will reach the floor and be voted upon, because the full Senate has not yet voted on the proposed amendment for equal rights for women.

If I were forced to choose between these four proposals, I would choose No. 8. There is certainly a need for a Federal primary. A two-party system which functions well is a bulwark of democracy. Many State constitutions and statutes have been amended in recognition of this. Nominating conventions suffer from the incurable defect that rump conventions can always be formed by dissident minority groups, and one convention cannot bind the next one 4 years later.

Television viewers of the Republican National Convention last summer saw the disgraceful spectacle of three separate delegations from Florida, each claiming to be the proper Republican delegates from that State. Such contests are often decided merely by which candidate a particular delegation is supporting, and such a decision does not prevent the same people from making the same contest 4 years later with perhaps a different result then. Such factional fights can go on forever. With a primary, the legitimacy of delegates is no problem.

And the primary should be on the same date throughout the country. The fact that New Hampshire held the first primary in 1952 gave it a grossly exaggerated importance. Just as the President is elected on one date, so also should he be nominated on one date. Parties could still hold national conventions to draw up platforms, hear speeches, et cetera, as they do in the States.

Another feature of Senate Joint Resolution 8 is that it provides for abolition of the electoral college and proportional division of the electoral votes of a State. This will prevent an elector from thwarting the will of the people. This will also be beneficial in strengthening the Republican Party in the Deep South and the Democratic Party in States like Vermont. There is a possible danger that it would also strengthen third parties to the point where we would be like France.

This could be avoided by an amendment limiting the division to the top two candidates. Thus, if A got 50 percent, B got 40 percent, and C got 10 percent, then A could be given five-ninths of the electoral vote of that State and B could be given the remaining four-ninths. This would preserve the two-party system and still make a much fairer division of the electoral votes than the present system.

I am not satisfied with the provision in lines 14, 15, and 16 of page 6 because if there are two national committee members from each State, as there are in the Democratic Party, one might favor one candidate and the other a different candidate, and there is no provision for resolving the deadlock to decide how the State's vote will be cast.

This would also be true with a three-member delegation to the Republican National Committee if there were three candidates and each member from a given State favored a different one. Chances of deadlock are high with delegations of 2 or 3.

I think even the author of Senate Joint Resolution 8 will agree that there should be a change in the first sentence of section 3. The words "two years" should be changed to "twenty-three months." This is due to the fact that the Tuesday next after the first Monday in November may vary anywhere from November 2 to November 8 and thus the period might be just a few days less than 2 years. And if we are going to have special elections for President, we might consider abolishing the office of Vice President entirely. Some States have abolished the similar office of lieutenant governor.

Another amendment I would make in Senate Joint Resolution 8 would be to have section 5 read "on the 30th day of January following its ratification." Two years is too long to wait, but an effective date in January will still leave time for a full campaign before an election the following November.

These amendments which I have suggested are of a minor, clarifying type and do not alter the fundamental purpose of Senate Joint Resolution 8 in bringing up to date our outmoded electoral system of the horse-and-buggy days.

Senator KEFAUVER. Thank you very much.

By way of summary here, we have two joint resolutions, Senate Joint Resolution 17 which I have filed, which is a simple authorization for Congress to provide for the nomination of candidates for President and Vice President, and Senate Joint Resolution 8 by Senator Smathers which has the same purpose but sets out a good deal of machinery and details about how it shall be done.

The other proposal we have is Senate Joint Resolution 19 which I filed as a separate resolution which would divide the electoral college vote proportionately. That is contained in Senator Smathers' resolution, Senate Joint Resolution 85, along with other constitutional proposals, the so-called omnibus bill.

The third proposal we have is contained in Senator Smathers' Senate Joint Resolution 85 which provides for the election of a President rather than have the Vice President serve if 2 years remain of the President's term after his death or impeachment.

You said there were four constitutional proposals. What is the other one?

Mr. COBB. I thought there was going to be a hearing on Senate Joint Resolution 55.

Senator KEFAUVER. Senator Humphrey's Senate Joint Resolution 55 provides for a constitutional amendment for direct popular election of the President and Vice President. Senator Langer has had a proposal of that kind which is Senate Joint Resolution 84. So those are the ones you referred to.

Mr. Letchworth, do you have any questions?

Mr. LETCHWORTH. No, sir.

Senator KEFAUVER. Mr. Cobb, I was interested in your discussion about the desirability of joint hearings between the Senate and House committees which I think all of us agree would be theoretically a wonderful thing if we could consolidate our hearings and have the benefit of discussion and consideration together. We do have some Senate-House joint committees like the Atomic Energy Committee and others.

The practical difficulty is getting that many members together at any one particular time. The hearing rooms, unfortunately, are mostly in the House Office Building or the Senate Office Building. Going back and forth presents problems.

Then you have the business of the House and Senate going on at the same time and that presents many difficulties.

It has been proposed if we could have hearing rooms in the middle of the Capitol which would be more accessible to both sides, we might get along better with these joint hearings. It is a very desirable idea, but it is a very difficult one to put into practice.

Thank you very much for coming here and presenting your statement.

Does anyone else want to testify about any of these resolutions?

The committee is glad to have Mr. David Whatley.

STATEMENT OF DAVID WHATLEY, BETHESDA, MD.

Mr. WHATLEY. I am just an obscure member of the District of Columbia bar. This has been one of the subjects which has engaged my interest for a long time. I am not an expert on the subject, but wish merely to propose a few suggestions that the committee give consideration. In order to afford the necessary public interest to permit the passage of any of these amendments, I propose the well-worn and misused device of establishing a joint commission similar to the Hoover Commission which could undertake a study of all of our election law machinery and submit an overall amendment which would embody principles contained in all of these resolutions.

None of these resolutions are so controversial that this would militate against their adoption, if combined. If not, they should be considered in separate amendments to the Constitution.

DIMINISHING HIATUS BETWEEN ELECTION AND INAUGURATION

First, I should like to particularly ask that the committee give additional study to the necessity of diminishing the hiatus between the time at which the President is elected and the time he takes office.

I think the Congress, in submitting the so-called lame duck amendment, would have probably changed the date of the inauguration of the President or else changed the date of his election, except for the high prestige in which was held the name of Senator George Norris, the author of the resolution, that that problem was not dealt with ade-

quately in the amendment to the Constitution. In these times of grave national emergencies and possible atomic war, I submit that the period between the election and the inauguration of the President might have definite, devastating effects upon the welfare of the country.

In the case of a complete change of administration, I appreciate it is desirable for a President to have adequate time to study the issues that he will be confronted with upon inauguration, and to appoint his Cabinet. But I believe that any candidate for President that has a substantial chance of winning an election for President should already be so familiar with those issues that he should not need to make a special study of them and should have made in advance of the election an announcement of his Cabinet posts so the voters might wish to pass upon that as a criterion of the policies he will undertake.

The primary dates should be made uniform in all the States by provision of any resolutions you should pass. They vary from State to State now in such a wide range of time there is no sustained interest involved nationwide as there is in the general election. The system does not get out the requisite number of voters. I believe if the date were set in the late fall it would still give adequate time for campaigning for the general election.

I propose that the date of the general election be set forward to New Year's Day. Many people who are away from their homes during Christmas would have returned to their homes on New Year's Day. It would be a holiday and there would be many additional working people who would vote than they would under the present system whereby they vote on Tuesday which in many States is not a holiday.

Most States require that the citizen must vote in the precinct in which he has his residence, requiring him to travel great distances from his place of employment to the voting place.

Also I would propose in Senate Joint Resolution 17 that Congress shall have the power to provide for nomination of candidates for Congress as well as President and Vice President so as to clear up constitutional ambiguity of Federal power to regulate the primaries.

SELECTION OF CONVENTION DELEGATES

May I present a point of view which I do not feel qualified to recommend, but you mentioned in your opening statement that our constitutional founders considered three major methods of electing the President; that the proposal for electing the President and Vice President by the Congress was rejected. I suggest that the objections then ascribed to this proposal are no longer valid.

I submit the Congress might well consider the possibility of replacing the present convention system with a convention which would be made up exclusively of candidates who were nominated, in the primary of their party, for election to the House and the Senate, giving in that way the same number of delegates to the convention to each State that is provided for them in the Congress.

In other words, the Democrat candidate for Congress having been nominated in the primary before the convention stand for election in the general election not only on his own platform and record but also upon his choice for President. After such a convention were held, a general election would be held and the candidate for Congress could then in some measure stand or fall on his votes in the convention.

It would in that indirect fashion give the people some voice prior to the convention and some means of redressing, in the subsequent general election what they consider wrong votes in the convention. That proposal, so far as I know, has never been put forward. It may have no merit, but I think it might be worth your study as perhaps being easier to get adopted as a constitutional amendment than would your own resolution, Senate Joint Resolution 17.

Senator KEFAUVER. Let me see if I understand that. You mean last year, for instance, the candidates for Congress of the Democrat Party who have been selected in primaries or in conventions prior to some time between their selection and the general election in November should meet and select the candidate for President and Vice President?

Mr. WHATLEY. They should meet in conventions of their own party and select the candidates. Thereafter, they would be up for regular election to Congress. Whether they voted for their constituents choice for presidential candidate in those conventions could then be passed upon by the voters in electing them or rejecting them for seats in Congress in the general election.

Senator KEFAUVER. That would require the Federal Government taking over the primaries because many primaries and conventions are not held until after the regular time for the national convention choosing the candidates for President and Vice President?

Mr. WHATLEY. Yes. I think the Federal Government should have that power.

Senator KEFAUVER. I thank you very much for your contribution.

Chairman Langer of the committee has a letter, dated April 27, from Senator Humphrey to which is attached a statement in support of Senator Humphrey's resolution, Senate Joint Resolution 55.

(The letter and statement referred to follow:)

UNITED STATES SENATE,
Washington, D. C., April 27, 1953.

Hon. WILLIAM LANGER,
Chairman, Senate Judiciary Committee,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: I appreciate very much your notice of a hearing before a subcommittee of the Committee on the Judiciary on my resolution, Senate Joint Resolution 55, proposing an amendment to the Constitution of the United States providing for the direct popular election of President and Vice President. In view of a previous vital engagement in my home State of Minnesota, it will be impossible for me to appear personally before your subcommittee. I would appreciate it if you would incorporate as part of the record of the hearings of your subcommittee a statement by me in support of my proposed amendment. I am, therefore, attaching herewith a statement which I placed in the Congressional Record at the time I introduced the resolution on March 9, 1953, with a request that the statement be printed in your hearings.

I do hope that your subcommittee will favorably report a constitutional amendment to abolish the electoral college and provide for the direct popular election of President and Vice President.

Best wishes to you.

Sincerely yours,

HUBERT H. HUMPHREY.

DIRECT POPULAR ELECTION OF PRESIDENT AND VICE PRESIDENT

Mr. HUMPHREY. Mr. President, I introduce for appropriate reference a joint resolution proposing an amendment to the Constitution of the United States providing for the direct popular election of President and Vice President. I ask unanimous consent that an explanatory statement prepared by me on the joint resolution be printed in the Record.

The VICE PRESIDENT. The joint resolution will be received and appropriately referred; and, without objection, the statement will be printed in the Record.

The joint resolution (S. J. Res. 55) proposing an amendment to the Constitution of the United States providing for the direct popular election of President and Vice President, introduced by Mr. Humphrey, was received, read twice by its title, and referred to the Committee on the Judiciary.

The statement presented by Mr. Humphrey is as follows:

"STATEMENT BY SENATOR HUMPHREY

"For 160 years, the United States has been hampered by an obstacle in the path of democratic selection of the Chief Executives. The system has persisted in spite of oft repeated efforts to substitute more rational and democratic methods. Now, in a time when democracy is enduring its severest trial before the peoples of the world, the United States must perform the duties which it has assumed, and lead the free nations of the world in demonstrating that democracy is the best way.

"The fundamental principle on which any democracy is founded is that the people governed shall have a voice, a controlling voice in their government. This means that they shall elect their public servants by popular vote, so that the servants are responsible to the people in the most direct way possible. It is also inherent in any democracy that all citizens shall have an equal voice in choosing their public servants. It is inconsistent with our principles that the votes of some of our citizens are worth twice, five times, or ten times as much as others, merely due to their geographic distribution. It is even more inconsistent that in every presidential election, millions of votes are not counted at all. These inconsistencies are difficult to justify in the eyes of the world. The United States should meet the challenge, and reform its outmoded election system in order that it may better reflect the will of the people.

"The electoral college system has many defects. Not only is it possible for a man to be elected President of the United States even though more Americans may have voted for his opponent, but this has happened three times in the short history of our country. In 1824, Andrew Jackson polled 50,000 votes more than his nearest rival, John Quincy Adams, but lacked a majority due to the votes received by two other candidates. The election was thrown to the House of Representatives under the provisions of the Constitution. There, through pressure and influence, Adams was chosen to be President.

"Again in 1876, Samuel J. Tilden received almost 265,000 votes more than Rutherford B. Hayes. Hayes won the election, however, through a vote in the Electoral Commission set up to decide the contest.

"In 1888, Grover Cleveland received 375,000 votes more than Benjamin Harrison but lost to Harrison through the peculiar distribution of votes in the electoral college.

"These three men, Adams, Hayes, and Harrison, were all defeated in the popular election, but nevertheless became President. More voters preferred another candidate in each instance, but due to our election arrangement, the also-ran became the Chief Executive. How can we justly say we believe in majority rule unless we correct the situation which allows this possibility?

"There are three factors which contribute to the possibility of a President being chosen without receiving more votes than any other candidate. The first of these factors is that all the electoral votes of a State are cast for the candidate that polls the greatest number of votes in the State. Thus, it makes no difference in the result of an election whether a candidate wins a State by a narrow margin or by a sweeping majority. The votes cast for the losing candidates in a State might just as well not have been cast at all. It is as if all the voters who did not vote for the winning candidate had been disfranchised. They might just as well have stayed home. This may well be the cause of much apathy at election time in this country, particularly in the States which consistently vote one ticket year after year. There are an estimated 37 million people in the United States qualified to vote who do not choose to exercise this fundamental prerogative.

"There are further statistics to show the unfortunate effects of the all-or-nothing rule, not as spectacular as electing the wrong President, but important nonetheless because they show that the electoral vote does not reflect the will of the people. In 1884, Cleveland received 563,084 popular votes in the State of New York and all of its electoral votes. In the same election, Blaine received 562,001 popular votes, only 1,083 fewer than Cleveland, but got none of the State's electoral votes. The electoral vote cast by the State seemed to indicate that New

York was 100 percent behind Cleveland when in actuality, the margin between his support and Blaine's amounted to less than a tenth of a percent of the total vote cast.

"In 1932, Herbert Hoover had 15,800,000 popular votes and of these 13,600,000 brought no electoral votes due to their distribution among the States. Of Mr. Hoover's nearly 16 million votes, only 2 million were reflected in the electoral vote. In 1924, John W. Davis polled 6 million votes which were worthless to him for they brought no electoral votes, while 2 million other popular votes brought him 136 electoral votes. These 2 million votes were infinitely more valuable to Davis than the votes of 6 million other people who happened to be living in the wrong States to make their votes effective.

"The second factor which contributes to the possibility of an 'also-ran' becoming President of the United States is the fact that under the present electoral college system, each State is given a bonus of two electoral votes over the votes it has due to its population. There are 96 of these bonus votes distributed among the 48 States, and they give an unfair advantage to the voters who reside in the smaller States.

"In 1950, the census showed the United States population to be 150,697,361. Thirty-eight States contained 70,453,399 people; the remaining 10 States contained 80,243,962 or 9,790,563 more than the 38 smaller States. But the 10 States have 20 automatic electoral votes while the 38 have 76 automatic votes. The 10 large States have over 6 million more people but 56 fewer electoral votes. The voters in the large States are penalized in that their votes don't count as much as those from the smaller States due to the two-vote bonus.

"The third factor that contributes to the possibility that a President may be elected without having polled the most votes is the fact that a State casts the same number of electoral votes regardless of the number of people who turn out to vote. In the extreme case, a thousand people in New York could cast 47 electoral votes so long as no one else in the State bothered to vote. We don't have to go to the extreme case, however, to find extraordinary situations which actually existed. In the 1952 election, 1 electoral vote in Mississippi represented less than 36,000 popular votes due to the small election day turnout, while in Minnesota 1 electoral vote represented more than 125,000 popular votes. The voter in Minnesota had less than one-third the importance in the final result as the voter in Mississippi. I am sure we all revere and respect the Mississippi voter, but there are few among us, I think, who will maintain that his judgment concerning who should be President is more than three times as astute as that of the Minnesota or Massachusetts voter.

"The following table represents other instances of unequal representation which have actually occurred:

"In 1912 Wilson received 1 elector per 14,500 votes; Taft received 1 elector per 435,000 votes.

"In 1928 Hoover received 1 elector per 48,180 votes; Smith received 1 elector per 172,602 votes.

In 1932 Hoover received 1 elector per 267,149 votes; Roosevelt received 1 elector per 48,351 votes.

In 1948 Truman received 1 elector per 78,123 votes; Dewey received 1 elector per 113,990 votes.

In 1952 Stevenson received 1 elector per 306,646 votes; Eisenhower received 1 elector per 76,764 votes.

"The best way to eliminate the possibility that a man will be elected President in spite of the will of the people is to conduct a general popular election for the position. This does away with all the factors which might contribute to the election of a man who had lost the general election. Under the constitutional amendment which I am introducing today, every voter casts one vote, a whole vote, which is just as good and just as important as the vote cast by any other voter in the country. This is the democratic way. This is what we are trying to convince the people of the world to do. This is, in reality, what is implied in the spirit of our Government. This is the final step in the constitutional evolution which began with the Declaration that all men are created equal, and continued with the assertion that no man or woman may be denied the right to vote for arbitrary reasons. Now we must make the suffrage an equal suffrage, and repudiate arbitrary and discriminatory geographical bases for denying or reducing the importance of the votes of some of our citizens.

"The electoral college also permits the majority will within a State to be ignored. The best an individual member of the electoral college can do is perform a function which could more efficiently be performed without him. The

worst he can do is to refuse to vote as instructed by the voters of his State and substitute his own will for theirs. In 1948, electors of four States repudiated the Democratic candidate and cast ballots for the States-rights candidate. One elector out of 11 from a fifth State, Tennessee, did the same in spite of an overwhelming victory of the Democratic candidate over the States-right candidate in that State. The electors are not legally bound to follow the dictates of their State's electorate, and are free to exercise their discretion as they see fit.

"In 1796 three electors disregarded the mandate of the general election, with the result that John Adams rather than Thomas Jefferson was elected.

"A whole State's citizenry may be disenfranchised by the action of a handful of men. The sooner this possibility is removed from our election procedures, the better for the American people.

"From the voters' point of view, the electoral college only adds to the confusion of election day. The voter wants to vote for the President and Vice President, not for a list of electors whose names he doesn't recognize. Yet in 10 States, only the names of the electors appear on the ballot. In 16 other States, the ballot includes both the names of the candidates and of the electors.

"Another reason for abolishing the electoral college is the possible confusion which would result if an elector is unable to carry out the function for which he was chosen. Suppose he dies, or fails to cast his vote on the proper day and in the proper way. Or suppose the Presidential candidate to whom he is pledged becomes ineligible and the elector is freed from his pledge. All of these circumstances have occurred in our history and all of them could have been avoided if the electoral college had been abolished.

"Direct popular election of the President and Vice President are not new concepts in our political philosophy. The father of the Constitution, James Madison, strongly favored direct popular election. The man whose counsel and philosophy guided the creation of the Constitution, Benjamin Franklin, also supported this form of election. Andrew Jackson, one of the great Presidents of our history who was more closely in touch with the will of the people than most, emphasized in his first message to Congress the need for direct popular election as a method of democratizing the election process. At best, the electoral college system is the result of a crude compromise, a matter of necessity in order to unite the States at the time of the Constitutional Convention. At worst, it is a device originally created to remove from the hands of the people the selection of the country's Chief Executive. Do we still believe that we must compromise on an issue so basic in a democracy? Do we still believe that the people are not to be trusted in choosing their President?

"The answer to both of these questions is clear and it is "No." We have shown countless times that we recognize that the country is strong when the voice of the people is heard. We have removed restrictions on the suffrage three times by constitutional amendment in amendments 14, 15, and 19. In reality, these amendments did not extend the suffrage; they merely recognized contradictions of democracy in our country and removed the contradictions.

"We must now continue in the pattern set by our enlightened predecessors, in the tradition of democracy. We must support a direct election of the President and Vice President, recognizing that the present system is defective in guaranteeing the democratic equality of all voters, and that this anachronism must be eliminated.

The process of election as it exists today, promotes an unusual and unfortunate emphasis in presidential campaigning. In the first place, most candidates concentrate on winning majorities in a few large States, realizing that even if these majorities are very slight, they will carry with them all of the electoral votes in the States. These large States contribute a disproportionate number of votes in the electoral college and for this reason the campaigns are disproportionately directed toward these States. The voters in the smaller States are neglected and must choose between the candidates on insufficient evidence. Proof of this campaign emphasis exists in the fact that 17 out of 27 major party candidates for the Presidency since 1900 came from Ohio or New York. In the past 50 years, we have had 3 Presidents from New York and 3 from Ohio. In the past 70 years, only twice has a President been elected without winning a majority in the State of New York.

I don't mean to detract from the caliber of the Presidents and candidates produced by New York and Ohio, and several of the other large States. However, I would venture to say that there have been other possible candidates from smaller States who weren't given the consideration that might have been due them because of their geographic position. On the other hand, citizens of the smaller

States who are not the beneficiaries of vigorous campaigning are often apathetic about voting. We have a nonvoting population of 37 million, an extraordinarily large percentage for a free republic.

Another factor in the peculiar emphases of our campaigns is the unusual importance of minority groups in large doubtful States. Often, presidential candidates must give these groups far more consideration than is healthy in a democracy where the majority is supposed to rule. That minorities can exert an important influence is clearly shown in the election of 1948 when the Progressive Party polled enough votes to swing two important States to the Republican candidate. I use this example because it is one of the few cases where the effect of the vote of a political minority group can be accurately shown. It is more difficult to study the voting patterns of other minority groups because under the secret ballot these votes cannot be separated in the final election returns. However, there is no doubt that certain minority groups receive special treatment in presidential campaigns, and we can be sure that this is not without good reason.

A direct presidential election is needed, then, for many reasons, but all of the reasons are derived from the principle that all votes cast should have equal importance in deciding who is to be President. This principle is basic in our democracy as well as in any other democracy. It means not only that all the votes cast will have the same mathematical importance, but that all votes will be the end product of virtually the same opportunity of choice, as far as possible.

"It is our duty to the world as well as to our own citizens to perfect our form of democracy until it is beyond the criticism of principle without execution. We must be the example to the free world not only in our words and ideas, but in our actions and our conduct. We must mean what we say when we dedicate ourselves to a government in which its strength, integrity, and sovereignty are those of its people, as expressed in free, untrammeled elections.

MAY 5, 1953.

Hon. HUBERT H. HUMPHREY,
United States Senate, Washington, D. C.

DEAR SENATOR HUMPHREY: Thank you for your letter of April 27, 1953, advising me that you would be unable to appear before the subcommittee considering Senate Joint Resolution 55, a resolution which you proposed providing for the direct popular election of President and Vice President.

It was necessary for me to postpone the hearing which I had scheduled on your resolution and others and as yet, no further date has been set. However, I will see to it that you are notified when the hearing is scheduled. If at that time you are still unable to appear before the subcommittee, I will be glad to include the statement in the record which you made at the time you introduced the resolution in the Senate, as you requested.

With kindest regards, I am

Sincerely,

WILLIAM LANGER, *Chairman.*

Senator KEFAUVER. It will be noted in the record telegrams advising of the time of this hearing and inviting them to appear has been sent to a number of people and organizations as shown in the telegram which will be printed and then the replies from some of them will be printed following this telegram in the record.

(The telegrams and replies referred to follow):

JUNE 1, 1953.

Subcommittee hearings on Senate Joint Resolution 8 and similar resolutions proposing amendment to the Constitution relative to election of President and Vice President, originally scheduled for April 28, 1953, have been rescheduled for Thursday, June 11, 1953, at 10 a. m., in Room 424, Senate Office Building. Please advise whether you or a representative will attend.

WILLIAM LANGER,
Subcommittee Chairman.

Same wire to—

Robert G. Storey, president, American Bar Association, 1140 North Dearborn Street, Chicago 10, Ill.

William L. Ellis, president, the Federal Bar Association, 10 Carvel Road, Washington 16, D. C.

Bethuel N. Webster, the Association of the Bar of the City of New York, 15 Broad Street, New York 5, N. Y.
John Gunther, representative legislative branch, Americans for Democratic Action, 1341 Connecticut Avenue NW., Washington, D. C.
Miles Kennedy, American Legion, 1608 K Street NW., Washington, D. C.
Adin Downer, Veterans of Foreign Wars, Wire Building, Washington, D. C.
Disabled American Veterans, 1701 18th Street NW., Washington, D. C.
AMVETS, 1710 Rhode Island Avenue NW., Washington, D. C.

AMERICAN BAR ASSOCIATION,
Chicago 10, Ill., June 8, 1953.

Senator WILLIAM LANGER,
Senate Office Building, Washington, D. C.

DEAR SENATOR LANGER: We greatly appreciate your telegram of June 1 giving information as to the subcommittee hearings on Senate Joint Resolution 8 and similar resolutions proposing amendment to the Constitution relative to the election of the President and the Vice President of the United States, and your request that an American Bar Association representative attend these hearings. This information was transmitted to the chairman of the association's committee on jurisprudence and law reform. Unfortunately, he will not be able to attend the hearings on June 11, and since the committee has not studied this matter, it does not seem advisable to designate another member of the committee to attend.

I should like to take this opportunity to express appreciation for your interest and for the opportunity afforded to the association to express its views on matters coming within its jurisdiction.

Sincerely yours,

JOSEPH D. STECHER, *Secretary.*

NEW YORK, N. Y., *June 2, 1953.*

Hon. WILLIAM LANGER,
Senate Office Building, Washington, D. C.:

Re your telegram concerning hearings on Senate Joint Resolution 8 and related proposals our committee on Federal legislation is considering matter but will be unable to report or take position by June 11. Meanwhile, please send copies of resolutions, hearings, reports, etc., to Theodore Pearson, chairman, committee on Federal legislation, 70 Broadway, New York.

BETHUEL M. WEBSTER,
President, Association of the Bar of the City of New York.

DISABLED AMERICAN VETERANS,
Washington 9, D. C., June 2, 1953.

Hon. WILLIAM LANGER,
United States Senate, Washington, D. C.

DEAR SENATOR LANGER: Thank you for your wire announcing that subcommittee hearings on Senate Joint Resolution 8 and similar resolutions proposing an amendment to the United States Constitution relative to election of President and Vice President will be held on Thursday, June 11, 1953, at 10 a. m., in room 424, Senate Office Building.

You ask me to advise you whether a representative of the DAV will attend and submit testimony on this resolution. I have reviewed our mandates and unfortunately we do not have a resolution on this subject, therefore a representative of the DAV would not have the authority to appear on the resolution.

I want to thank you for your telegraphic notice and your kind invitation to appear.

With best wishes, I am,
Very sincerely yours,

FRANCIS M. SULLIVAN,
National Legislative Director.

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Kansas City, Mo., June 1, 1953.

Hon. WILLIAM LANGER,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR SENATOR LANGER: This is in reply to your telegram of June 1, inquiring if the Veterans of Foreign Wars wishes to appear before your subcommittee on Senate Joint Resolution 8 and similar resolutions to amend the Constitution.

We do not desire to appear on these matters and thank you for your inquiry.

Respectfully yours,

ADIN M. DOWNER,
Assistant Legislative Officer.

AMVETS,
Washington, D. C., June 2, 1953.

Hon. WILLIAM LANGER,
Chairman, Subcommittee on Constitutional Amendments,
Judiciary Committee, United States Senate, Washington 25, D. C.

MY DEAR SENATOR LANGER: This will acknowledge receipt of your telegram of June 1, 1953, wherein you advised AMVETS that your committee plans hearings on Senate Joint Resolution 8 and similar resolutions proposing amendments to the Constitution relative to the election of the President and Vice President on June 11, 1953, at 10 a. m. in room 424 of the Senate Office Building.

While AMVETS do not plan to have a representative testify at your hearing, I believe you would be interested in Resolution No. 63 passed by our National Convention in Grand Rapids, Mich., in September of 1952. This resolution in essence urges the enactment of proper legislation to abolish the electoral college system of electing the President of the United States and to substitute in its place a system whereby the President will be elected by the popular vote of the people.

We would appreciate having a copy of this letter inserted in the record of hearings in order that the position of our organization might be made known.

Sincerely yours,

RUFUS H. WILSON,
National Legislative Director.

Senator KEFAUVER. From the Legislative Reference Service we have memorandums of the Library of Congress on Senate Joint Resolution 17 which will be printed in the record; Senate Joint Resolution 19 which will be printed; and Senate Joint Resolution 55 which will be printed.

(The memorandums referred to follow:)

THE LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE, AMERICAN LAW SECTION,
Washington, D. C., February 19, 1953.

To: Hon. William Langer.
Subject: Senate Joint Resolution 17, 83d Congress.

By letter of January 28, 1953, you have requested a study and report in triplicate on Senate Joint Resolution 17, 83d Congress. You have requested that the report be submitted within 20 days.

This resolution proposes an amendment to the Constitution granting to Congress the power to provide for the nomination of candidates for President and Vice President by primary elections to be held in each State, the District of Columbia, and the Territories, and to make all laws necessary and proper for carrying into execution this power. While the District of Columbia and the Territories could participate in these primaries, they could not participate in the general elections.

An amendment of this nature avoids controversy over direct abolishment of the electoral college. It is obvious that it would conflict with the theoretical freedom of the electoral college to vote for candidates of their choosing. However, we believe that the early rule established by the Supreme Court requiring that conflicting provisions be harmonized (see *Holmes* v. *Jennison* (1840) 14 Pet. 540, 570 and *Cohens* v. *Virginia* (1821) 6 Wheat. 264) would work a limitation on this freedom of selection and would require that the electors choose from candidates selected in accordance with this resolution and the laws enacted

thereunder. A somewhat similar proposal has been introduced in the House in this Congress. See House Joint Resolution 169.

Section 2 of the resolution contains the usual limitation requiring ratification by three-fourths of the legislatures of the several States within 7 years.

We express no opinion as to the merits of this resolution or to the policy involved therein.

FRANK B. HORNE,
American Law Section.

THE LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE, AMERICAN LAW SECTION,
Washington 25, D. C., February 19, 1953.

To: Hon. William Langer.
Subject: Senate Joint Resolution 19, 83d Congress.

By letter of January 28, 1953, you have requested a study and report in triplicate on Senate Joint Resolution 19, 83d Congress, and that the report be submitted within 20 days.

This resolution is similar to earlier proposals, such as the Lodge (S. J. Res. 200) and Gossett (H. J. Res. 9) resolutions of the 80th Congress. The Lodge-Gossett proposals were reported (S. Rept. 1230 and H. Rept. 1615, 80th Cong.) but failed to receive further action. According to the latter report, the same resolution was reported earlier in the 72d Congress and in the 73d Congress.

In the 81st Congress, Senate Joint Resolution 2 was reported (S. Rept. 602); passed the Senate; was reported in the House (H. Rept. 1858); but failed of passage under suspension of the rules on July 17, 1950. See also House Joint Resolution 2, 81st Congress, and the report thereon (H. Rept. 1011).

Senate Joint Resolution 52 was reported in the 82d Congress (S. Rept. 594), as was House Joint Resolution 19 (H. Rept. 1199), but no further action was taken. Therefore, the high-water mark on legislative action came in the 81st Congress.

The reports noted above, and no doubt the committee dockets, contain quantities of information, as well as the pros and cons, on this proposed amendment. Accordingly, this study and report will be limited to observations on the constitutional provisions which are involved. No attempt will be made to discuss the merits or policy considerations.

At the outset we invite attention to the repeal provisions of section 2 of Senate Joint Resolution 19. Heretofore, with the exception of the repeal of the 18th amendment by the 21st amendment, the articles of amendment have not contained repeal provisions. The reason for this is, we suppose, that the Constitution is an instrument of government, in general terms, made and adopted by the people for practical purposes. It unavoidably deals in general language. *Martin* v. *Hunter* ((1816) 1 Wheat. 304, 326). Because of the use of general language, conflicts naturally arise. From the beginning the Supreme Court has adhered to the principle that these conflicts must be harmonized if possible. See *Holmes* v. *Jennison* ((1840) 14 Pet. 540, 570) and *Cohens* v. *Virginia* ((1821) 6 Wheat. 264). With these principles in mind, we turn to the specific language of the resolution.

Section 1 states that the executive power shall be vested in a President of the United States. This language is now found in article II, section 1, clause 1, but that language will be repealed by section 2 of this resolution. The President is to hold his office during a term of 4 years and, together with the Vice President chosen for the same term, is to be elected as provided in the Constitution. Clause 2 of section 1 abolishes the electoral college and provides that the President and Vice President shall be elected by the people of the several States. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. This is the same language found in article I, section 2, clause 1, and the 17th amendment establishing qualifications for electors for Representatives and Senators. It is one of the focal points of debate over State poll tax and other requirements attached to the exercise of the voting franchise. Clause 2 goes on to authorize Congress to determine the time for such election, which shall be the same throughout the United States. Similar authority is now found in article II, section 1, clause 3 which will be repealed. Until otherwise determined by Congress, the new provision would set the Tuesday next after the first Monday in November of the year preceding the regular term of the President as the date of the election. Congress would thus have power to close the time gap between the election and the inauguration of the

President if it so desired. However, you will note that there is no grant to the Congress of the power to regulate the place and manner of conducting an election as is now provided with respect to election of Senators and Representatives in article I, section 4, clause 1. We are not certain that such a further grant is necessary. We merely suggest that the powers might be made to coincide. The last sentence of clause 2 retains for each State the electoral votes, thus preserving to States having small populations their advantage. States presently having populations sufficient only to an apportionment of 1 Representative in Congress but nevertheless having 3 electoral votes under the constitutional system, are Delaware, Nevada, Vermont, and Wyoming. See the last apportionment message of the President, House Document 36, 82d Congress.

Clause 3 of section 1 provides that within 45 days after the election, the official custodian of election returns of each State shall make distinct lists of all persons for whom votes were cast for President which he shall sign, certify, and transmit sealed to the President of the Senate who shall, in the presence of the Senate and House, open the certificates for the purpose of counting the votes. Each person for whom votes for President were cast in each State, shall be credited with such proportion of the electoral votes as he received of the total votes of the electors. In making the computation, fractional numbers less than one-thousandth shall be disregarded. The person having the greatest number of electoral votes shall be President, but if two or more persons shall have equal votes, then the one having the greatest number of popular votes shall be President.

Clause 4 provides that the Vice President shall be elected in the same manner as the President and it provides that no person ineligible for the office of President shall be eligible for that of the Vice President. This is necessary because section 2 would repeal the 12th article of amendment. Prior to that amendment, no qualifications were prescribed for the Vice President. In fact, there was some academic debate, under the original provisions, as to whether the Vice President became President upon the death of the President or whether he merely acted as President. Professor Willoughby has stated that the original language of the Constitution, if strictly followed, would seem to point to, or at least render possible, the construction that upon death, removal, resignation, or inability of the President, the Vice President does not become President, but that the powers and duties of the office simply "devolve" upon him. He notes, however, the uniform practice, since Vice President Tyler took the office upon the death of President Harrison, of considering the succeeding Vice President as becoming President. Willoughy, The Constitutional Law of the United States ((1929), 3: 1471). For an interesting account of the Tyler succession, see Horwill, The Usages of the American Constitution ((1925) chapter 3, entitled "Accidental Presidents," p. 69 ff.). Apparently, former President John Quincy Adams at first took exception to the fact that Mr. Tyler "styles himself President * * * and not Vice President acting as President * * *." (*Id.*, p. 73.) See also Field, The Vice Presidency of the United States ((1922) Amer. L. R. 56: 365, 382). We do not present this as a problem, but merely an item of possible interest. However, we do invite attention to the fact that the only provision found in the Constitution specifically stating that the Vice President shall become President in a given instance is found in section 3 of the 20th amendment which states that "If, at the time fixed for the beginning of the term of the President, the President-elect shall have died, the Vice President-elect shall become President."

We have already noted that section 2 of the resolution provides for the repeal of paragraphs 1, 2, and 3 of section 1 of article II, and the 12th article of amendment to the Constitution.

Section 3 provides the effective date following ratification and section 4 contains the usual time limitation on ratification by the legislatures of three-fourths of the several States within 7 years.

FRANK B. HORNE,
American Law Section.

THE LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE, AMERICAN LAW SECTION,
Washington 25, D. C., March 27, 1953.

To: Hon. William Langer.
Subject: Senate Joint Resolution 55, 83d Congress.

By letter of March 11, 1953, you have requested a study and report in triplicate on Senate Joint Resolution 55, 83d Congress, and that the report be submitted within 20 days.

This resolution is similar in some respects to Senate Joint Resolution 19, 83d Congress, which we commented on in our memorandum of February 19, 1953. At the outset, we invite attention to section 5 of the resolution, which would repeal clauses 1, 2, and 3 of article II, section 1, of the Constitution, and the 12th amendment. Heretofore, with the exception of the repeal of the 18th amendment by the 21st amendment, the articles of amendment have not contained repeal provisions.

Section 1 of Senate Joint Resolution 55 states that the executive power shall be vested in a President of the United States. This language is now found in article II, section 1, clause 1, which will be repealed by section 5 of this resolution. The President is to hold office during a term of 4 years and, together with the Vice President chosen for the same term, is to be elected as provided in this amendment. Clause 2 abolishes the electoral college and provides that the President and Vice President shall be elected by a direct vote of the people of the United States as determined at a general election. Clause 3 provides that until otherwise determined by Congress the date of election shall be the first Tuesday after the first Monday in November of the year preceding the expiration of the regular term of the President and the Vice President. Congress would thus have power to close the gap between the election and the inauguration of the President if it so desired. The electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State legislature. This is the same language found in article I, section 2, clause 1, and the 17th amendment, establishing qualifications for electors for Representatives and Senators. As stated in our earlier memorandum, the subject of qualifications is one of the focal points of debate on the poll tax and other requirements attached to the exercise of the voting franchise.

Clause 1 of section 2 provides that within 30 days after the election, or at such time as the Congress shall direct, each State shall make distinct lists of all persons receiving votes for President and for Vice President and the number of votes cast in such State for each. These lists shall be signed, certified, and transmitted sealed to the seat of the Government, directed to the President of the Senate, who shall, in the presence of the Senate and House of Representatives, open all certificates for the counting of the vote. The person having the greatest number of votes for President, if such number be at least 40 percent of the whole number of votes cast for that office, shall be President. Under clause 2, 40 percent of the whole vote cast for Vice President is required to elect to that office. No person constitutionally ineligible for the office of President shall be eligible to that of the Vice President. This requirement is presently found in the 12th amendment.

Section 3 provides that if no person has received at least 40 percent of the vote cast for President, or in the event that 2 persons have received at least 40 percent of the vote and have also received an equal number of votes, the House shall choose the President by ballot from the 2 such persons. In so choosing, each Member of the House shall have 1 vote, and a quorum for this purpose shall be two-thirds of the membership. Under the 12th amendment, votes are taken by States. If the House has not chosen a President by January 20, whenever the right of choice shall devolve upon that body, the Vice-President-elect "shall act as President, as in the case of the death or other constitutional disability of the President."

Section 4 empowers the Senate similarly to choose the Vice President in the event that no person has received 40 percent of the whole number of votes cast or in the event 2 persons are tied and each has received at least 40 percent of the whole number of votes cast. With respect to the wording quoted above, stating that the Vice President shall act as President, our memorandum of February 19, 1953, noted the academic debate relating to the original provision

in the Constitution and the question as to whether the Vice President became President upon the death of the President or merely acted as President. We do not believe it necessary to repeat that part of the memorandum here.

We have already noted that section 5 of the resolution provides for the repeal of article II, section 1, clauses 1, 2, and 3, and the 12th amendment to the Constitution. Section 6 provides that the effective date shall be the 30th day of January following ratifications, and section 7 contains the usual time requirement of ratification by the legislatures of three-fourths of the several States within 7 years.

FRANK B. HORNE,
American Law Section.

Senator KEFAUVER. This subcommittee will be recessed, subject to the call of the Chair.

(Whereupon, at 4:10 p. m., the subcommittee was recessed, subject to the call of the Chair.)

NOMINATION AND ELECTION OF PRESIDENT AND VICE PRESIDENT

MONDAY, JULY 13, 1953

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to notice, at 4 p. m. in room 424, Senate Office Building, Hon. William Langer (chairman of the subcommittee) presiding.

Present: Senator Langer.

Also present: Wayne H. Smithey, subcommittee counsel.

The CHAIRMAN. The committee will come to order.

We will now take up the amendment providing for the direct election of the President and Vice President by the people. We will first insert Senate Joint Resolution 84 in the record and an article explaining the resolution which I submitted to the National Debate Manual.

(The resolution referred to follows:)

[S. J. Res. 84, 83d Cong., 1st Sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States, providing for nomination of candidates for President and Vice President, and for election of such candidates, by popular vote

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several States:

"ARTICLE —

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice President, chosen for the same term, be nominated and elected as hereinafter provided.

"SEC. 2. The official candidates of political parties for President and Vice President shall be nominated at a primary election by direct vote. Voters in each State shall have the qualifications requisite for voters of the most numerous branch of the State legislature, but, in the primary election each voter shall be eligible to vote only in the primary of the party of his registered affiliation. The time of such primary election shall be the same throughout the United States, and, unless the Congress shall by law appoint a different day, such primary election shall be held on the first Tuesday, after the first Monday in June in the year preceding the expiration of the regular term of President and Vice President. No person shall be a candidate for nomination for President or Vice President except in the primary of the party of his registered affiliation, and his name shall be on that party's ballot in all the States if he shall have filed a petition in the seat of the Government of the United States with the Secretary of State, which petition shall be valid only if filed at least sixty days prior to the day of the primary election and if signed by qualified voters in any or all of the

several States, equal in number to at least 1 per centum of the total number of popular votes cast throughout the United States for all candidates for President (or, in the case of the primary election first held after the ratification of this article, for electors of President and Vice President) in the most recent previous Presidential election.

"SEC. 3. For the purposes of this article a political party shall be recognized as such if at any time within four years next preceding a primary election it has had registered as members thereof more than 5 per centum of the total registered voters in the United States.

"SEC. 4. Within thirty days after such primary election, the chief executive of each State shall make distinct lists of all persons of each political party, for whom votes were cast, and the number of votes for each such person, which lists shall be signed, certified, and transmitted under the seal of such State to the seat of the Government of the United States, directed to the Secretary of Sate, who shall open all certificates and count the votes. The person receiving the greatest aggregate number of popular votes of the party of his registered affiliation for President shall be the official candidate for President of such party throughout the United States; and the person receiving the greatest aggregate number of popular votes of the party of his registered affiliation for Vice President shall be the official candidate for Vice President of such party throughout the United States.

"SEC. 5. In the event of the death or resignation of the official candidate of any political party for President, the person nominated by such political party for Vice President shall be the official candidate of such party for President. In the event of the deaths or resignations of the official candidates of any political party for President and Vice President, or in the event of the death or resignation of the official candidate of any political party for Vice President, a national committee of such party shall designate such candidate or candidates, who shall then be deemed the official candidate or candidates of such party, but in choosing such candidate or candidates the vote shall be taken by States, the delegation from each State having one vote. A quorum for such purposes shall consist of a delegate or delegates from two-thirds of the States, and a majority of all States shall be necessary to a choice.

"SEC. 6. The electoral-college system of electing the President and Vice President of the United States is hereby abolished. The President and Vice President of the United States shall be elected at a general election by the people of the several States by direct popular vote of the qualified voters in each State who shall have the qualifications requisite for electors of the most numerous branch of the State legislature. The time of such election shall be the same throughout the United States, and unless the Congress shall by law appoint a different day, such election shall be held on the first Tuesday after the first Monday in November in the year preceding the expiration of the regular term of the President and Vice President. Only the names of candidates officially nominated in primaries as herein provided shall appear upon the official ballot in every State for the offices of President and Vice President.

"SEC. 7. Within thirty days after such election, the chief executive of each State shall make distinct lists of all persons receiving votes for President and all persons receiving votes for Vice President and the number of votes cast in such State for each, which lists shall be signed, certified, and transmitted under the seal of such State to the seat of the Government of the United States directed to the President of the Senate. The President of the Senate shall, on the 6th day of January, or if such day shall fall on Sunday, on the 7th day of January, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest aggregate number of popular votes for President shall be President, and the person having the greatest aggregate number of popular votes for Vice President shall be Vice President. No person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

"SEC. 8. In the event that it is shown by such certificates that the two persons receiving the greatest number of votes for President have received an equal number of such votes, the House of Representatives, by ballot, shall choose the President from the two persons receiving the greatest number of votes for President. In choosing the President the votes shall be taken by States, the representation from each State having one vote. A quorum for this purpose shall consist of a Member or Members from two-thirds of the States, and a majority of all the States shall be necessary to the choice. If the House of Representatives shall not choose a President whenever the right of choice shall devolve upon

them, before the 20th day of January next following, then the Vice President shall act as President, as in the case of death or other constitutional disability of the President. In the event that it is shown by such certificates that the two persons receiving the greatest number of votes for Vice President have received an equal number of such votes, the Senate, by ballot, shall choose the Vice President from the two persons having the greatest number of votes for Vice President. A quorum for this purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

"SEC. 9. Congress shall have power to enforce this article by appropriate legislation.

"SEC. 10. The Congress shall have power to provide by appropriate legislation for methods of determining any dispute or controversy that may arise in the counting and canvassing of the votes for President and Vice President in any such primary or general election. The places and manner of holding such primary or general election shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations.

"SEC. 11. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

THE POPULAR ELECTION OF THE PRESIDENT AND THE VICE-PRESIDENT [1]

By William Langer [2]

Many proposals have been introduced in the Congress to change the method by which we select and elect persons for the office of the President and Vice President of the United States. Many of these proposals involve the utilization, in one manner or another, of either the electoral college or the electoral vote. The measure which I have introduced again in this session, Senate Joint Resolution 84, eliminates not only the utilization of the electoral college in the election of the President and Vice President, but it also eliminates the use of the electoral vote as the means for determining the popular choice for those high offices.

In discussing my amendment, then, let's begin with a discussion of the electoral college and the electoral vote.

While some persons are willing to defend the electoral vote as a means of determining a presidential contest, even fewer defend either the existence or the utilization of the electoral college as a means of electing the President and Vice President of the United States. In my opinion, the electoral college has been obsolete for years.

The method of selecting electors under the present system was left for the determination by each State, and at the present time it varies widely among the several States. In some States voters cast their ballot for a single elector (the so-called "single shot" elector). In others, a whole slate of electors is chosen. In others, the Governors of the States appoint the electors after the general election has determined the popular choice. In most of the States, regardless of the method of selection of electors, the law does not bind the electors to cast their ballot for the nominee of the party on whose ballot they appear; nor in some States where only the names of presidential candidates appear are the electors bound to vote for the popular choice of the voters. For example, in 1796, the first contested election, a Federalist in Pennsylvania voted for Thomas Jefferson instead of John Adams, his party's choice. In 1820 a New Hampshire elector supported John Quincy Adams, who was not a candidate, and thereby deprived President Monroe of an unanimous electoral vote. Four years later, three New York electors who were supposed to support Henry Clay in his bid for the presidency cast their ballots for the opposition. In the 1948 election antagonism for President Truman caused the Virginia Legislature to empower a State Party Convention to direct the State's electors to vote otherwise than for the national ticket. Thus, while the instances are few in which an elector has

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[1] Prepared for Selecting the President: The Twenty-seventh Discussion and Debate Manual. Copyright 1953. All rights reserved.

[2] The Honorable William Langer, United States Senator from North Dakota, has served as Governor of North Dakota (1933–34 and 1937–39) and as United States Senator since 1940.

cast his ballot contrary to the indicated choice of the people of his State, such a situation happened as recently as 1948, when a Tennessee elector cast his ballot for the States' Rights candidate after the people of his State had given the candidate of the Democratic Party the largest popular vote. This resulted in the disenfranchisement of thousands of voters within the State of Tennessee just as surely as if they had never case their ballots at all. In an election where the electoral vote is close, or in an election where the winning candidate barely has a majority of the electoral votes, an elector who does not abide by the popular choice of the voters of his State may decisively change the expressed will of the voters of the country.

The best example of an occasion when such a situation almost developed occurred in the presidential election of 1876. In that election Samuel Tilden needed only one vote in order to give him the necessary majority of electoral votes to secure his election as President of the United States. James Russell Lowell, who was a Hayes elector in Massachusetts, was most vehemently urged to cast his vote for Tilden, thus giving Tilden the necessary majority. While James Russell Lowell turned a deaf ear on these pleas because of his firm belief in the moral duty of electors, his unilateral decision would have elected the President of the United States had he been a man of less tough moral fiber.

Thus, while the "free-wheeling elector," as such a person is sometimes called, has occurred only infrequently since the formation of the Government of the United States, the possibility remains that such an individual might, in effect, cancel the votes of many people.

Another evil of the electoral system as it is now utilized is that some States list the names of the electors on the ballot and such electors are elected statewide. Some 26 States still print this type of ballot. Occasionally confused voters sometimes split their votes on the listed electors, choosing some from one party and some from another, thereby invalidating their ballots. While it is not likely that such instances will be repeated often enough to affect the outcome of an election, the immediate undesirable result is the loss of the franchise by a well-meaning but uninformed citizen.

Another difficulty presented by the existence of the electoral college is the possibility of disqualification of the electors themselves after they have been selected by the electors. The Constitution declares that Members of Congress and Federal officeholders are ineligible to serve as presidential electors. If a person who is ineligible to serve as an elector succeeds in being elected, his ballot, if cast, is invalid. This sometimes happens. There are also instances where electors have failed to comply with the law in the manner or time of casting their votes, or for some reason are unable to cast their ballots on the specified day. For instance, in 1857, the electoral vote of the State of Wisconsin was challenged at the time of the counting of the votes in Congress because that State's electors had been held up by a blizzard and were not able to meet at the State capitol to cast their votes on the day appointed by law. While the two Houses were not able to agree whether the Wisconsin votes were thus valid, these votes were not decisive, for they had been cast for Fremont, the losing candidate. However, a double set of electoral votes was announced by the Congress, one with and one without the Wisconsin votes included. An accumulation of such technicalities as these would alter the outcome of an election.

It should be immediately pointed out that no such difficulties would arise if the proposal which I advocate were adopted, for the President and Vice President would be selected by the popular vote of the people, just as Governors and Senators within the States are today.

But the most alarming possible consequence of the electoral college system is the prospect that the electors chosen by the people of the several States without knowledge of their qualifications, lacking the distinguished qualities envisioned by the framers of the Constitution, might be called upon to exercise independent judgment in the election of a President of the United States. This might occur if the successful candidate on election day in November became incapacitated, either by reason of death or other disability, between election day and the day upon which the electors met in the several States to cast their ballots. This almost occurred in 1872 when Horace Greely, the liberal Republican candidate, died shortly after the November elections. However, since he had received only a minority of the votes in that election, the precise problem highlighted here did not arise, but it is certainly far from being a remote or impossible contingency that the successful candidate might become legally incapacitated from being eligible for the votes of the electoral college. This situation was vividly pointed out by the Committee on the Judiciary of the United States Senate in

its report on Senate Joint Resolution 52 of the 82d Congress. The Greeley situation is interesting primarily because of the attitude of the Greeley electors when it came time to cast their ballots for President of the United States. Most of them named the vice presidential candidate of their ticket on their ballots for President and followed their own fancy in voting for someone else for Vice President, but some of them carried out their implied pledge to vote for Greeley even though he was dead. These votes were lost because the Senate and the House of Representatives were unable to agree on whether Greeley, after his death, was a "person" within the meaning of the Constitution. Our practice of electing 531 relatively obscure individuals to the electoral college would indeed be tragic if these electors were compelled to exercise independent judgment in their selection of a president of the United States. The result of such an eventuality is certainly terrifying, and it might well spell disaster for the Republic.

I feel that an outstanding argument in favor of the adoption of my proposal for the direct election of President and Vice President is that it completely eliminates the electoral college and the electors, as such.

While some people are willing to join me in the drive to eliminate the electoral college as such, they are unwilling to dispense with the electoral vote as a means of determining the winning candidate in an election of President or Vice President. I, myself, find it no more difficult to accept such a proposition, so far as the presidency of the United States is concerned, than I do so far as the Governor of a State is concerned, and the idea of a man being elected President of the United States with less votes than his opponent is, to me, repugnant. Yet, if you refer to history, you will discover that a President has been elected on three different occasions in our history by the electoral vote when he had received fewer popular votes than his leading opponent. This happened in the case of President Adams in 1824; President Hayes in 1870, and President Harrison in 1888. In such a situation, the American people are actually forced to accept a President not of their choosing, and I believe that it is at least theoretically possible that such a situation might arise, even though a system were devised whereby the electoral vote could be apportioned within each State according to the popular vote which each candidate received. For example, under the Lodge-Gossett plan the outcome of the election of 1900 would have been strikingly different. Although William McKinley received a popular vote exceeding that of Bryan by 861,459 votes, Bryan would have defeated McKinley under the Lodge Gossett plan by an electoral vote of 218.8 against McKinley's 214.5. This in spite of the fact that McKinley's lead was the largest popular vote majority ever given a candidate for President up to that time.

I probably should have made it clear at the outset that the proposal for the direct election of the President and the Vice President by popular vote is not original with me. It has been advocated by many prominent persons since the beginning of the Republic. James Madison, for instance, favored it. So did Andrew Jackson, and Senator Lodge introduced an amendment providing for the direct election of President and Vice President for many sessions before he developed what has become knowns as the Lodge-Gossett plan.

The refusal of the framers of the Constitution to permit the popular election of the President and Vice President can be laid to the fear prevalent in those days that no one save the landed gentry was qualified to express an intelligent preference for the high office of President of the United States. I know of no one today who would contend for such a proposition. Seldom, if ever, in the history of nations have the people of one nation had such high educational qualifications for exercising their right of free selection in a republican form of government.

Another difficulty inherent in the present system of electing the President and Vice President of the United States is the possibility that if no candidate secures a majority of the electoral votes the election will be resolved by the House of Representatives in the case of the President and by the Senate in the case of the Vice President. This practice was criticized by Thomas Jefferson in a letter to George Hay in 1823 and by James Madison, who wrote to Hay:

"* * * The present rule of voting for President by the House of Representatives is so great a departure from the Republican principle of numerical equality, and even from the Federal rule which qualifies the numerical by a State equality, and is so pregnant also with a mischievous tendency in practice, that an amendment of the Constitution on this point is justly called for by all its considerate and best friends."

One of the fundamental evils in this system of resolving a contested election by the House of Representatives in the case of the President has been that all of

the States, without regard to differences in population, are given equal power in electing the President of the United States. This procedure, it may be noted, even abrogates the basic principle upon which the present approach to presidential elections is predicated, namely, that each State's relative voting power shall be measured in terms both of the State as a unit (represented by the 2 electoral votes for the 2 Senators) and the State in terms of relative population (represented by the number of electoral votes for the number of Representatives). When an election is thrown into the House of Representatives the electoral principle is wholly disregarded and each State stands on an equal basis with every other State. It, therefore, furnishes no accurate measure of reflecting the popular will, and any amendment designed to improve the method of electing the President of the United States should include provisions which would eliminate as nearly as possible any eventuality that the election might ultimately require determination by the House of Representatives. As a matter of fact, the umpirage of the House of Representatives, as this system is sometimes called, can work to thwart the popular will. This actually happened in 1824. In the elections in that year Andrew Jackson led his nearest opponent, John Quincy Adams, by approximately 50,000 popular votes. However, Jackson lacked the necessary majority in the electoral college, so that the election was submitted to the House of Representatives for its determination. When this happened Henry Clay is supposed to have traded his support of Adams in return for a promise of the office of Secretary of State, and as a result Adams, who was in reality not the popular choice, was elected over Jackson.

In additon to the possibility of such an undesirable consequence, throwing the election into the House of Representatives may result in a deadlock and it is possible that inauguration day may come and go without a President of the United States having been selected by the House. Political analysts indicated that there was a strong possibility of such a thing happening in the 1948 election if Mr. Truman had not received the necessary electoral majority.

The resolution which I have introduced reduces to a minimum the possibility that the House of Representatives will be the final arbiter in a presidential election. Senate Joint Resolution 84 provides that the House of Representatives shall choose the President only when the two persons receiving the greatest number of votes for President have received an equal number of such votes. Manifestly, this is a highly unlikely contingency. This resolution attempts to insure that the candidate who is named President of the United States reflects the will of those who voted directly for the candidate of their choice and that the House of Representatives will have a voice in the election of the President only in the extremely remote contingency that two candidates poll an equal number of votes.

Thus far, I have discussed but two of the undesirable attributes of the present system which the amendment I have introduced would correct. In addition to the elimination of these undesirable features of the present system, Senate Joint Resolution 84 contains considerable safeguards against many of the evils raised by supporters of the present system to other proposed changes in the method of electing the President of the United States. One of the distinct advantages of Senate Joint Resolution 84 is that it reduces materially the possibility of splinter parties by imposing strict requirements on the qualifications of parties and candidates. The resolution provides that a political party shall be recognized as such if at any time within 4 years next preceding a primary election it had a registered membership of more than 10 percent of the total registered voters of the United States. I do not have available the number of registered voters in the United States, but, using the total popular vote cast in 1952 as a base (61 million), a party, in order to get its candidate's name on the ballot, would have to have a membership of at least 6,100,000 voters. Taking the figures of the 1948 election as an example, the States' Rights Party and the Progressive Party each captured only 2.2 percent of the total vote cast in that presidential election. In order for either of these organizations to qualify as political parties under section 3 of Senate Joint Resolution 84 each organization would have to secure approximately 5 times as many registered members as it received votes in 1948. These figures demonstrate that so-called minor or splinter parties would have a difficult time qualifying as political parties under this resolution. However, the emergence of a new political party is not impossible under the resolution, for it should be pointed out that the States' Rights and Progressive Party candidates did not appear on the ballot in all of the States, and presumably these parties could have gained support in such States. While I do not fear the creation of a third party as such, I do not think that multiple or splinter parties are desirable in this country, particularly in view of conditions in European countries, where multiple parties have added complexities to the development of stable governments.

Perhaps I should point out here that the resolution I have introduced contains a proposal for a nationwide primary in each of the political parties, and such a proposition is a basic part of the proposal for the direct election of President and Vice President. I can see little advantage in permitting the popular choice of a President and Vice President in a general election if the voters of the Nation are required merely to take the lesser of two evils, as has sometimes been the case under the present party convention system. I believe that the people of the United States who belong to a political party should have the opportunity to select that party's candidate by popular ballot, and the resolution which I have introduced so provides. However, the resolution does not permit an unsuccessful, disgruntled candidate in the primary to file in the general election the following November, for it requires the names of the candidates officially nominated in primaries to appear upon the official ballot in every State for the offices of President and Vice President. By this method, the people of the United States will be able to fully express their choice for President of the United States and, to my mind, this is as it should be. I see at least five desirable consequences of the adoption of Senate Joint Resolution 84, namely:

1. It abolishes the electoral college;
2. It abolishes the office of elector and with it the possibility that the popular choice will be disregarded;
3. It makes the formation and qualification of splinter parties difficult, while at the same time preserving the possibility of the establishment of a new political organization;
4. It gives the electorate a direct opportunity to select party candidates as well as to elect one of these candidates as President of the United States. Such a consequence can only result in increased interest and in increased voter participation in elections, both general and primary; and
5. It reduces the possibility of an election's being decided by the House of Representatives.

Election reform to accomplish these worthwhile objectives is long overdue.

The CHAIRMAN. We will now hear from Mr. Emme.

STATEMENT OF DUANE EMME, ST. PAUL, MINN.

Mr. EMME. In regard to Senate Joint Resolution 84 submitted by Senator Langer, I wholeheartedly agree with this resolution. In the first place, the direct primary method by which voters within their party choose their candidates for President is a step in the right direction because through this action, I think we will be able to broaden the base of the political party system.

Figures show that political parties by actual registration have been decreasing in number, whereas the so-called independent vote has been increasing in number. The only way you are going to get a strong healthy party is by convincing people that they have a voice in their party. Our present system of conventions is entirely too far removed from the face of the party. Therefore, in respect to the first part of the resolution which sets up a primary election to choose the candidates, I am entirely in favor of it. I am sure it is a step toward a more representative democracy.

Mr. SMITHEY. Mr. Emme, before you leave that point, purely as a mechanical problem, the resolution, Senate Joint Resolution 84, contains a provision which says:

* * * but, in the primary election each voter shall be eligible to vote only in the primary of the party of his registered affiliation.

There is a similar provision appearing in the Smathers resolution and I think in all of those which have been presented providing for a nationwide primary. What do the laws of the State of Minnesota provide with respect to registration? Are all voters required to register their political affiliation?

Mr. EMME. The present law in Minnesota requires, at the primary, that the voter state his party preference.

Mr. SMITHEY. When he comes to the polls?

Mr. EMME. That is right.

Mr. SMITHEY. Does he state it any time before that? Is he required to register as people in some of the larger cities in the Nation are?

Mr. EMME. There is no registration.

Mr. SMITHEY. I am wondering if it would not be necessary under a provision like this and under the Smathers resolution to establish nationwide registration for political affiliation?

Mr. EMME. I noticed that when I first read "each voter shall be eligible to vote only in the primary of the party of his registered affiliation." I think it would depend upon an interpretation of this resolution because, in a sense, in Minnesota, it depends upon how you define "registered affiliation." You do register your affiliation when you get the ballot, but there is no official registration. That part of the resolution, I think, probably would be open to interpretation.

Mr. SMITHEY. You will notice it provides in section 3:

For the purposes of this article a political party shall be recognized as such if at any time within 4 years next preceding a primary election it has had registered as members thereof more than 5 per centum of the total registered voters in the United States.

Mr. EMME. That might interfere with the Minnesota law.

Mr. SMITHEY. Again depending upon a definition of "registration." There is a law, as I understand it, in the State of Nebraska that requires registration in the larger cities but not in the rural areas. I am wondering how an amendment like this would operate under such conditions. Is it your view that it would be desirable to have nationwide registration if you have a nationwide primary?

Mr. EMME. Yes; it is my view that it would be desirable, but whether it would be open to conflict here with the various States, I am not sure.

The CHAIRMAN. In Minnesota, cannot a man go to the primary and vote for whomever he pleases?

Mr. EMME. Under the present law, he has to state his party preference.

Mr. SMITHEY. He asks for one ballot or the other?

Mr. EMME. That is right, and there was quite a general rebellion to that, I might say, at the time of the primary election. There was a lot of comment. There was talk of some action being taken by the State legislature but, as far as I know, it was not taken in the last session. There was a bill before the State legislature to amend the primary system in Minnesota, but I do not believe the bill passed. As I recall, it was in the committee, but not passed.

As for the part of this resolution that actually does away with the electoral college and makes it possible for direct representation, I am heartily in favor of that too. I think most people throughout the country are now of the view that the electoral-college system that we have is obsolete.

Mr. SMITHEY. I take it you are not in favor of the free-wheeling elector?

Mr. EMME. That is right; positively not.

Mr. SMITHEY. As you read this bill, would it have had any effect upon the primary that was conducted in Minnesota last year at which time many persons wrote in votes for General Eisenhower?

Mr. EMME. I am not sure. General Eisenhower received a tremendous vote. The write-in was legal in the State of Minnesota. During those primaries in the various States, I remember there was a lot of trouble about the write-in vote, but it was legal. I have not seen the part in here where it would conflict.

As you know, Senator Humphrey won the Minnesota Democratic primary. Senator Kefauver, who was one of the leading candidates for the nomination at that time, was not on the ballot. Even so, his name was written in quite extensively in that primary election. That, despite the fact there was no organized write-in drive made at all by Kefauver backers.

Mr. SMITHEY. Under the laws of Minnesota as they now stand, are the party delegates bound by the selection of the candidate?

Mr. EMME. This, again, is my interpretation. I believe delegates are bound until that candidate has less than 10 percent of the total vote in the convention or when released by that candidate at an earlier time. That is my interpretation. I believe that Senator Humphrey's delegates were released after the first ballot.

Mr. SMITHEY. Do you have any further comment on Senate Joint Resolution 84?

Mr. EMME. Yes; I have, as it pertains to Minnesota. A movement was started by some young DFL leaders, including myself, in which we tried to eliminate State convention endorsements by our party. The Republican Party in Minnesota does not endorse their candidates for State offices at a convention.

I was one of the leaders in that movement for one reason. I believed such action would give the people in our party more of a voice in choosing their candidates in the primary. I mention this because I believe there is direct similarity between a movement like that and this resolution. Movements that will broaden the base of political action are sorely needed. I think this is so in the State of Minnesota with regard to the DFL Party.

The CHAIRMAN. Do you not think that there has been a growing feeling all over the country in the last few years that when a man goes to vote, he ought to be allowed to vote for whom he pleases?

Mr. EMME. I definitely do.

The CHAIRMAN. Regardless of political affiliation as evidenced in California where Senator Knowland was nominated by both the Democratic Party and the Republican Party. Before that, Hiram Johnson won the different nominations. I think he won all except the Socialist nomination. Do you not think the theory is growing all over the country and the independent wants to go in and vote for whomever he considers the best man?

Mr. EMME. Definitely. I was one of the leaders in the Kefauver movement in Minnesota. I could not help but have a terrific admiration for a candidate who went out and said, "I am seeking the office. Now, do you people want me for the office?" I am sure there is a feeling throughout this country that the people want a more direct voice in their party. When they do not get that voice, they are discouraged.

Some people have told me that "You are moving toward pure democracy." They are wrong. It is not pure democracy, rather it is a truly representative democracy we seek. A more representative democracy will bring more complete participation, with more people taking an active role in the two-party system.

When people do not take an active role in our two-party system, then they are not taking an active role in our Government because after all, our Government is based upon a two-party system.

Mr. SMITHEY. I take it you favor a two-party system?

Mr. EMME. That is right.

Mr. SMITHEY. Do you think the two-party system would be preserved under Senate Joint Resolution 84 which requires that, before a candidate can get his name on the ballot, he must have a petition signed by qualified voters in any or all of the several States, equal in number to at least 1 percent of the total number of the popular votes cast?

Mr. EMME. You mean do I think the resolution is any threat to the two-party system?

Mr. SMITHEY. No; I meant to ask you: Do you not think that it sustains the two-party system?

Mr. EMME. I certainly do.

Mr. SMITHEY. And it would prevent the establishment of the multiparty system such as they have in France? I take it you would be in favor of such a provision?

Mr. EMME. Entirely.

The CHAIRMAN. Going over your experience in the last 20 years and the history you have read, is it not true, for example, that when Mr. Dewey ran the first time against Mr. Roosevelt they both had the same foreign policy and the people did not have a candidate who was an isolationist?

We had the experience of Senator Burton K. Wheeler going out to Montana and Los Angeles and having 180,000 people at an open meeting all protesting against United States becoming involved in World War II. Yet the 2 conventions met and 1 nominated Thomas Dewey and 1 nominated Franklin Delano Roosevelt, and nobody on the ballot expressed Mr. Wheeler's viewpoint. Do you not think if, for example, Mr. Wheeler and, we will say, Mr. Kefauver, or Mr. Stevenson, or 4 or 5 more had been running at that time in the Democratic column, the people who wanted to could have voted for a man having the so-called American First idea?

Mr. EMME. In answer to that, Senator Langer, first of all, I would not have supported the views of either Governor Dewey or Senator Wheeler. But it is not individual views that count, mine or someone else's, what should count are the views of most of the people that make up a particular party. If Governor Dewey got the nomination and he truly did not represent the views of the grassroots, the rank and file of his party, then there was a weakness in the system by which he was nominated. There have been campaigns since that time in which there has been some serious doubt as to whether a candidate actually represented the rank-and-file view of his party. I would agree that there might have been different candidates if this resolution had been in effect.

The CHAIRMAN. Carrying the idea out further, only about half of the people vote for President now. Thousands and thousands did

not vote in that election between Mr. Dewey and Mr. Roosevelt because they simply did not agree with either one of them and they never had a chance to express their wishes as to whether they wanted a man who had the American First idea.

Mr. EMME. By a direct primary, you also force the prospective candidate to air his viewpoint, to lay his cards on the party table, so to speak.

Candidates should come out. They have a responsibility to appeal to the people in the party by saying: "This is what I stand for. If you agree then I'm your man."

The CHAIRMAN. That is the way it is today for the mayor, the governor, United States Senator, or Congressman.

Mr. EMME. Right. But sadly enough direct representation is too often lost in national elections.

The CHAIRMAN. Do you or do you not believe that we would have many, many more people vote if they could vote directly for a man?

Mr. EMME. I certainly do.

The CHAIRMAN. Rather than voting for a group of electors.

Mr. EMME. We would have more people vote and we would build a much healthier interest within the party system at the same time.

The CHAIRMAN. Go ahead, Mr. Smithey.

Mr. SMITHEY. As a matter of fact, there is nothing in this bill, Senate Joint Resolution 84, which would prevent those interested in presenting different views within the same party from having their candidate put on the ballot, is there? It actually encourages it.

Mr. EMME. Yes, and that is when different views should be presented.

Mr. SMITHEY. At the same time, it prevents the formation of multiple-parties.

Mr. EMME. Yes. It guards against multiparty growth while giving all the candidates within a party with different views an opportunity to find out what is the majority viewpoint. That is important. If we have a system in which we are not certain that our candidate represents the majority viewpoint of his party, then we have a definite weakness in the system.

Mr. SMITHEY. Not only that, but does not the legislation that you have before you require that the nominees of the political parties who qualify under the proposal be the only nominees on the ballot in the general election?

Mr. EMME. On page 3, it is clearly expressed, I believe, in line 19:

> The person receiving the greatest aggregate number of popular votes of the party of his registered affiliation for President shall be the official candidate for President of such party throughout the United States.

Is that the point you were getting at?

Mr. SMITHEY. I had reference to the provision in the resolution on page 5 which prevents a disgruntled candidate within the party from filing as an independent thereafter in order to weaken his own party.

Mr. EMME [reading]:

> Only the names of candidates officially nominated in primaries as herein provided shall appear upon the official ballot.

Mr. SMITHEY. Do you support that?

Mr. EMME. I do.

Mr. SMITHEY. In other words, you believe that once the electorate has spoken that ought to be binding upon individuals within that given party?

Mr. EMME. Yes; because then there will be no doubts. The candidate who wins has the majority of his particular party. Under our convention system, there may be some question.

Mr. SMITHEY. He might not have a majority, but he, at least, would have a plurality; is that not true?

Mr. EMME. Yes; plurality, not always a majority. Getting back to Minnesota, we have had instances in the DFL primaries, where, in 1 election, 5 of our endorsed candidates were defeated in the primary election. There were lots of claims of people jumping over but after all, the people expressed themselves in the party. It certainly is unhealthy for a party to present candidates that do not reflect the majority viewpoint within the party.

Mr. SMITHEY. It might be interesting to get the comments of Mr. King.

The CHAIRMAN. Yes, certainly.

STATEMENT OF GORMAN KING, VALLEY CITY, N. DAK.

Mr. KING. Mine will be direct and to the point. My feeling on this, Senator Langer, as far as the committee is concerned, it is purely a question of belief in democracy. If the committee so feels that they would like to have a man elected President and a man elected Vice President who represents the majority of the people who vote, they should without question support this resolution, Senate Joint Resolution 84, providing for the direct election in the primary of the President and Vice President.

Mr. SMITHEY. Is it your opinion on the electoral college that as now utilized, it is an archaic institution?

Mr. KING. It is obsolete. It is unnecessary. I feel sure that a test vote in our State on this particular issue would find the people supporting this by a big majority, this resolution of direct election. There is a lot of bad feeling among the people and there will be much more if the next national elections, if they have such, conduct themselves in the manner they did.

Mr. SMITHEY. If the electors themselves were responsive to the popular vote, it might not be so bad, would it, but when we have a free-wheeling elector, such as we had in the 1948 election in Tennessee, does he not in effect disenfranchise a multitude of people within his State?

Mr. KING. Definitely. The feeling among the people interested in public affairs is that so ofttimes when they vote, they do not have the chance to vote for the man they prefer, but ofttimes the lesser of two evils is presented in the archaic convention-type program that we have today.

Mr. SMITHEY. Are you aware of the historical example that is given of the power of an elector in the Hayes-Tilden election?

Mr. KING. No.

Mr. SMITHEY. That, Senator, is cited in the report on the Lodge-Gossett amendment.

The CHAIRMAN. Go into it and ask him about it.

Mr. SMITHEY. You will remember that the Hayes-Tilden election was very close. One of the Hayes electors was urged to vote for Tilden. Tilden had all but one vote that he needed. If that one elector had decided to go contrary to the people of his State, he could have been responsible for the election of the President and have changed the history of the United States. That is how important one elector can be as it stands now.

My question on the basis of that is: Do you believe that that much authority ought to be vested in an elector?

Mr. KING. Definitely not.

Mr. SMITHEY. I have no further questions on this, Senator, unless you do.

The CHAIRMAN. Did you see the television of these last two conventions?

Mr. KING. No, I did not. My wife and family attended one convention and many of my friends watched the other, but I did not see them.

The CHAIRMAN. That will be all then. Thank you very, very much. The meeting is adjourned.

(Whereupon, at 4:25 p. m., the committee recessed, subject to call.)

NOMINATION AND ELECTION OF PRESIDENT AND VICE PRESIDENT

WEDNESDAY, JULY 15, 1953

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The committee met at 3:30 p. m., pursuant to call, in Room 424, Senate Office Building, Senator William Langer (chairman) presiding.

Present: Senator Langer.

Present also: Wayne Smithey, subcommittee counsel.

The CHAIRMAN. Come to order.

Mr. SMITHEY. Mr. Chairman, Mr. Prentice is here from Senator Smith's office.

If it is appropriate at this point, may we insert a copy of the resolution introduced by Senator Smith of New Jersey on the 13th of July relating to the election of President and Vice President?

The CHAIRMAN. Yes.

(S. J. Res. 100 follows:)

[S. J. Res. 100, 83d Cong., 1st sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States providing for the election of electors of President and Vice President in the several States, for the election of President and Vice President by such electors, and, in certain cases, for the election of President and Vice President by the joint membership of the Senate and House of Representatives

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. For the purpose of choosing a President and Vice President of the United States, each State shall be divided by the legislature thereof into as many districts as will equal the number of Representatives to which such State may be entitled in Congress. Each such district shall be composed of contiguous and compact territory and contain, as nearly as practicable, an equal number of inhabitants. Such districts, when laid off, shall not be altered until after another census shall have been taken.

"SEC. 2. The inhabitants of each of such districts, having the qualifications requisite for electors of the most numerous branch of the State legislature, shall appoint one elector of President and Vice President. The inhabitants of each State having such qualifications shall appoint two electors of President and Vice President from the State at large. No Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

"SEC. 3. The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom at least, shall not be an inhabitant of the same State with themselves. The electors shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate.

"SEC. 4. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, and the person having the greatest number of votes for Vice President shall be the Vice President, if such number be at least 40 per centum of the whole number of electors. If on either list there are two who have such per centum and have an equal number of votes, then the Senate and House of Representatives, in joint meeting, shall immediately choose by ballot one of them for President or Vice President, as the case may be. If on either list no person shall have received votes equal to at least 40 per centum of the whole number of electors, then from the three highest on the list the Senate and House of Representatives shall, in like manner, choose the President or Vice President. In choosing the President or Vice President the votes shall be taken by heads and not by States, and a majority of the votes of the combined authorized membership of the Senate and House of Representatives shall be necessary to a choice.

"SEC. 5. The legislature of each State may specify the places of holding elections for electors, prescribe the manner of voting, and provide for the appointment of proper persons to conduct such elections with authority to declare definitively the result thereof, but the Congress may by law make or alter such regulations. If the legislature of any State fails to divide the State into districts as provided in this Article, the Congress may lay off such State into districts for the election of electors."

The CHAIRMAN. You may give your full name.

TESTIMONY OF COLGATE S. PRENTICE, LEGISLATIVE ASSISTANT TO SENATOR SMITH OF NEW JERSEY

Mr. PRENTICE. I am Colgate S. Prentice, legislative assistant to Senator Smith of New Jersey.

Unfortunately, Senator Smith was not able to be here, and I just wondered if I might be permitted to insert some documents and letters in the record.

The CHAIRMAN. You may do so. You may testify as to Senator Smith's ideas on it.

Mr. PRENTICE. Thank you, sir. I am afraid I am not prepared to do that.

I would like to put a few things in the record.

First, I would like permission to insert in the record pages 8877 through to the top of page 8880 of the Congressional Record of July 13, 1953, in which Senator Smith outlines the resolution and makes some remarks pertaining to it.

Mr. SMITHEY. Does that include the comparative tables?

Mr. PRENTICE. Yes, prepared by the Legislative Reference Service.

The CHAIRMAN. Those pages will be inserted.

(The pages referred to follow:)

AMENDMENT TO CONSTITUTION CHANGING METHOD OF ELECTING PRESIDENT AND VICE PRESIDENT

Mr. SMITH of New Jersey. I ask unanimous consent to speak for not more than 2 minutes in introducing a bill.

The VICE PRESIDENT. The Senator from New Jersey may proceed.

Mr. SMITH of New Jersey. On June 30 of this year the distinguished Senator from South Dakota, Mr. Mundt, introduced Senate Joint Resolution 95 to change the method of electing the President and Vice President, proposing an amendment to the Constitution. At that time the Senator from South Dakota made some extended remarks on the joint resolution. I desire to identify myself fully with the purposes which the distinguished Senator from South Dakota had in mind. I was a cosponsor of a joint resolution which former Senator Lodge introduced in the last Congress, looking to the same end. The Lodge joint resolution passed the Senate, but failed to pass the House. I have before me now a joint resolution which I am introducing, not in competition with the Mundt resolution, but as a further contribution to the discussion. My resolution is in line with the position taken by the Senator from South Dakota, and was prepared for me by members of the Princeton Department on Politics during this session. The members of that department were studying the subject, and I asked them to prepare the resolution before I knew the Senator from South Dakota was planning to introduce the one he submitted. I referred my joint resolution to the Legislative Reference Service with the request that a memorandum be prepared indicating the respects in which it differs from the Lodge joint resolution to which I have referred. The memorandum is so illuminating on the whole subject that I ask unanimous consent to have it printed in the Record as a part of my remarks. It was prepared for me by the American Law Division of the Legislative Reference Service and is entitled "Analysis of Proposal To Amend the Constitution Relating to the Election of President and Vice President; and Comparison Thereof With the Legislative Proposal Abolishing the Electoral College."

Mr. LANGER. Mr. President, reserving the right to object—and I shall not object—I wish to inform the Senator from New Jersey that the Subcommittee on Constitutional Amendments of the Committee on the Judiciary has scheduled hearings on the subject, and we shall be glad to have the Senator appear before the subcommittee on Wednesday afternoon.

Mr. SMITH of New Jersey. I thank the Senator from North Dakota. I shall try to be there to speak on the joint resolution.

(There being no objection, the analysis was ordered to be printed in the Record, as follows:)

ANALYSIS OF PROPOSAL TO AMEND THE CONSTITUTION RELATING TO ELECTION OF THE PRESIDENT AND VICE PRESIDENT; AND COMPARISON THEREOF WITH THE LODGE PROPOSAL ABOLISHING THE ELECTORAL COLLEGE

Pursuant to your instructions, as outlined in your letter of April 20, 1953, the draft of your proposed amendment to the United States Constitution relating to the manner of choosing the President and Vice President has been analyzed and a comparison thereof made with the Lodge proposal to abolish the electoral college. The comparison between the two proposals, showing how each would affect the present provisions of the Constitution, is submitted in separate tabular form for clarity.

ANALYSIS OF AMENDMENT SUBMITTED

Section 1 provides that for the purposes of choosing the President and Vice President each State shall be divided into such number of districts as the State has Representatives in Congress. The State legislature in each case is to make the division, but districts must be composed of contiguous and compact territory, and contain as nearly as practicable an equal number of inhabitants. Once districts are established they may not be altered until another census has been taken. It is to be assumed, of course, that reference here is to the decennial Federal census, although the States did at one time, and a few still do, conduct a census.

The language used in section 1 to define the districts to be created by the State legisatures from which electors are to be chosen is the same language used by Congress in describing congressional districts in the reapportionment acts under the Twelfth (1900) and Thirteenth Censuses, the words "and compact" being added under the latter apportionment. (Jan. 16, 1901, secs. 3, 4, ch. 93, 31 Stat. 733, 734; and Aug. 8, 1911, secs, 3, 4, ch. 5, 37 Stat. 13, 14.) Although there is no such requirement in the existing apportionment act (2 U. S. C.

2a–2b), two States have provisions in their constitutions making it mandatory that congressional districts be of contiguous and compact territory. (Virginia constitution (1902) sec. 55 and West Virginia constitution (1872) art. I, sec. 4.)

The idea of division of the States into districts for the purpose of selecting presidential electors is not novel. Following adoption of the Constitution, and beginning in 1788, several of the States voluntarily adopted the district method of electing presidential electors. The method, however, was generally abandoned by the States following the election of 1832. It was taken up again by Michigan in 1892 (laws 1891, No. 50) and is presently used in only one State. This State, Louisiana, requires that presidential electors be chosen from districts, that is, 1 from each congressional district and 2 at large (La., Rev. Stat. (1950) title 18, secs, 1381–1382). The law of this State goes even further and requires that the elector chosen from a district must be a qualified voter in the particular district from which chosen:

"Every qualified voter in the State shall vote for presidential electors as follows: 2 persons shall be selected from the State at large, and 1 person shall be chosen from each congressional district in the State" (sec. 1381).

"No person is a qualified presidential elector who is not a qualified voter in the district for which he is chosen, or if selected for the State at large, then of some parish of the State" (sec. 1382).

The legislative history of various attempts to get legislation through Congress requiring that electors be chosen by districts are discussed in *McPherson* v. *Blacker* ((1892) 146 U. S. 1). For discussion of reasons for discontinuance of the district system, see Message of Governor Rich to the Michigan Legislature on January 5, 1893, asking for repeal of the Miner law. The Senate Committee an Privileges and Elections in 1874 was of the opinion Congress had no such authority, indicating a constitutional amendment in the nature of the one submitted by you would be necessary to effect the desired result (S. Rept. No. 395, 43d Cong., 1st sess.).

Section 2 of the amendment submitted provides that the inhabitants of each district created pursuant to section 1 shall be entitled to appoint 1 elector of President and Vice President. Two additional electors shall be appointed from the State at large by the inhabitants of the State. Section 2 would, of course, nullify that portion of clause 2 of section 1 of article II of the Constitution now permitting a State to appoint its electors "in such manner as the legislature thereof may direct."

Section 2 adopts the language now used in the Constitution in connection with election of Senators (amendment XVII) and Representatives (art. I, sec. 2, cl. 3) in Congress by stating that persons voting for presidential electors "shall have the qualifications requisite for electors of the most numerous branch of the State legislatures." Such qualifications, therefore, that a State imposed on persons for voting for State officers, that is, for members of the State's legislature (most numerous branch) would also apply to persons voting for presidential electors as such qualifications now apply to those voting for Senators and Representatives in Congress. Section 2 does impose the additional qualification of being from the particular district, in voting for the district elector, but there is no requirement set forth in the section that the elector so chosen must be an inhabitant or resident of the particular district from which he is chosen.

The word "appoint" used in section 2 in connection with choosing of electors would not necessarily mean "elect," although it would permit election. The inhabitants of a district, or of the State as the case may be, could choose some method other than an election to choose the presidential electors. For instance, the provision of the Constitution (art. II, sec. 1, cl. 2), now allowing a State to appoint its electors "in such manner as the legislature thereof may direct" has been construed by the United States Supreme Court as "leaving it to the State legislatures to appoint directly by joint ballot or concurrent separate action, or through popular election by districts or by general ticket, or as otherwise might be directed." *McPherson* v. *Blacker* ((1892) 146 U. S. 1, 28) declaring valid the so-called Miner law of Michigan (laws 1891, No. 50) providing for the election of presidential electors by districts in a manner proposed by the amendment submitted.

Sections 1 and 2 of the amendment submitted would not change the number of electors to which each State is presently entitled pursuant to clause 2 of section 1 of article II, that is, one for each Senator and Representative in Congress. Also the provision in section 2 of the amendment submitted that "No Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector" is identical with language presently appearing in clause 2.

Section 3 relates to the meeting of the electors in their respective States, the casting of their ballots for President and Vice President, and the transmittal of the report of the vote of the presidential electors (the electoral college) to the seat of government of the United States. Section 3 is in identical language to that presently employed in the 12th amendment except for a minor grammatical change.

Section 4 relates to the counting of the electoral votes. Presently under the 12th amendment the person having the greatest number of votes for President, if a majority, is elected President, but if no person has such majority, the House of Representative chooses the President by ballot from the three highest. Similarly the 12th amendment provides that the person having the greatest number of votes for Vice President, if a majority, is elected Vice President, but if no person has a majority, the Senate chooses the Vice President from the two highest. Instead of a majority of the votes cast, section 4 of the amendment submitted, however, would permit a person having the greatest number of votes, providing it be at least 40 percent of the whole number of electoral votes, to be elected President or Vice President as the case may be.

Section 4 would also provide for two contingencies. One, if on either the list of persons voted for as President or on the list of persons voted for as Vice President there are two candidates having the required percentage but are tied for electoral votes, then the Senate and House of Representatives in joint meeting would immediately by ballot choose one of them for President or Vice President, as the case may be. Second, if on either list no person shall have received the required 40 percent, then from the three highest on the list the Senate and House would in like manner choose the President and Vice President.

Under section 4 of the amendment submitted, when the choice devolves upon the Congress to select either a President or Vice President, the votes shall be taken by heads and not by States, and a majority of the combined authorized membership of the Senate and House shall be necessary to a choice. Since there are 435 Representatives and 96 Senators, or a combined total of 531, this majority would be at least 266. This is actually a majority of the whole number of electors appointed and is the same majority numerically now required to elect under the present system. Presently, under the 12th amendment, when no candidate for President has received a majority of the vote of the whole number of electors, the House of Representatives ballots for President, their choice being confined to the persons not exceeding three who have received the highest electoral vote. The votes in the House are taken by States, the representation from each State having one vote. A quorum of the House for this purpose consists of a Member or Members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. The vote of at least 25 of the States is now required in case of such a contingency to elect the President. The vote of the delegation of each State is taken separately and the person receiving a majority of the votes given by the Representatives from the State receives the vote of that State. If the vote of the delegation is divided, the vote of the State does not count. (For election of President by the House, see Annals, 7th Cong., 1st sess., pp. 1010, 1022–1028 (1801); and after the 12th amendment, see Congressional Debates, vol. 1, 18th Cong., 2d sess., pp. 361–363, 515.) This method of choosing the President and Vice President by the House and Senate, would in effect be substituting Members of the House and Senate for the electoral college since numerically each group combined contains 531 Members. Such a method, eliminating voting by State and substituting a per capita vote, would eliminate the advantage now enjoyed by the smaller States when an election is thrown into the House.

Section 5 of the amendment submitted is entirely new and reads as follows:

"SEC. 5. The legislature of each State may specify the places of holding elec-

tions for electors, prescribe the manner of voting, and provide for the appointment of proper persons to conduct such elections with authority to declare definitely the result thereof, but the Congress may by law make or alter such regulations. If the legislature of any State fails to divide the State into districts as provided in this article, the Congress may lay off such State into districts for the election of electors."

This section applied to presidential electors is similar to present article I, section 4, clause 1, when applied to election of Senators and Representatives, but is more far reaching. The proposed section 5 would allow the States to specify the places of holding the elections for electors and prescribe the manner of voting. The States would also appoint the officials to conduct the elections and have authority to declare who was elected. However, the power would be reserved to the Congress to make or alter any such regulations made by the States. Although the proposed article of amendment does not declare that presidential electors are Federal officers, the fact that their appointment or election is rather extensively regulated would indicate that they are to be considered Federal officers. See *In re Green* ((1890) 134 U. S. 377) holding that, presently, electors are not Federal officers.

In addition section 5, specifically stating that Congress has the power to divide a State into districts for election of electors upon failure of a State to so act, seems to be a mere restatement of a power Congress would automatically have upon adoption of the rest of the amendment. By way of analogy, Congress presently has the power to require that the States elect Representatives from districts (and it has at times exercised this power) or the Congress may actually do the dividing itself. This power is derived from section 4 of article I of the Constitution authorizing it to regulate the places and manner of holding elections for Representatives. Under clause 18, section 8, article I, Congress has the power to make all laws necessary and proper for carrying into execution the foregoing power. See 42 Harvard Law Review 1017, note 4, and *Colegrove* v. *Green* ((1945) 328 U. S. 549, 555).

The amendment submitted does not alter the present constitutional and statutory provisions relating to the time of choosing electors found in article II, section 1, clause 4 and 48 Statutes 879, codified 62 Statutes 672 as United States Code, section 1.

COMPARISON OF AMENDMENTS SUBMITTED WITH THE LODGE PROPOSAL (LODGE-GOSSETT RESOLUTIONS) AND THE PRESENT METHOD OF ELECTING THE PRESIDENT AND VICE PRESIDENT

AMENDMENT SUBMITTED	LODGE PROPOSAL (S. J. RES. 2, 81ST CONG.) AS PASSED SENATE; SENATE JOINT RESOLUTION 52, 82D CONGRESS	PRESENT METHOD
Retention of electoral college.	Abolishes electoral college.	Electoral-college system.
No change. Electoral votes retained and apportioned among the several States as under present method—number of votes equal to one vote for each Senator and Representative in the Congress.	No change. Electoral votes retained and apportioned among the several States as under present method—number votes equal to one vote for each Senator and Representative in the Congress.	Electoral votes apportioned among the several States—number votes equal to one vote for each Senator and Representative in the Congress.
Office of elector retained.	Office of elector (including electoral college) abolished.	Electors of President and Vice President appointed by the States as the legislature determines.
For purpose of appointing (electing) electors by popular vote, each State, to be divided in districts, 1 elector to be elected from each district and 2 from the State at large.	No provision.	No provision.
Electors elected by popular vote, 1 from each district and 2 from the State at large.	The people vote directly for President and Vice President.	No provision for direct election but by custom electors are elected from the State at large except in Louisiana.
QUALIFICATIONS OF VOTERS	QUALIFICATIONS OF VOTERS	QUALIFICATIONS OF VOTERS
Voters voting for electors in presidential election to have same qualifications the State prescribes for voting for members of legislature. The language conforms with amendment XVII providing for election of Senators and article I, section 2, providing for election of Representatives. However, in voting for district elector, voter must be inhabitant of particular district.	Voters voting directly for President and Vice President to have the same qualifications the State prescribes for voting for members of legislature. The language conforms with amendment XVII providing for election of Senators and article I, section 2, providing for election of Representatives.	No provision as to qualification of voters voting for presidential electors.

COMPARISON OF AMENDMENTS SUBMITTED WITH THE LODGE PROPOSAL (LODGE-GOSSETT RESOLUTIONS) AND THE PRESENT METHOD OF ELECTING THE PRESIDENT AND VICE PRESIDENT—Continued

QUALIFICATIONS OF PRESIDENTIAL AND VICE PRESIDENTIAL ELECTORS	QUALIFICATIONS OF PRESIDENTIAL AND VICE PRESIDENTIAL ELECTORS	QUALIFICATIONS OF PRESIDENTIAL AND VICE PRESIDENTIAL ELECTORS
Same as at present. No United States Senator or Representative or person holding an office of trust or profit under the United States is eligible (art. II, sec. 1).	Office of elector abolished.	No United States Senator or Representative or person holding an office of trust or profit under the United States is eligible (art. II, sec. 1).
DATE OF PRESIDENTIAL ELECTION	DATE OF PRESIDENTIAL ELECTION	DATE OF PRESIDENTIAL ELECTION
Tuesday after first Monday in November of every fourth even-numbered year, unless Congress determines otherwise.	Tuesday after first Monday in November of every fourth even-numbered year, unless Congress determines otherwise.	The time of choosing (appointing or electing) electors is determined by Congress (art. II, sec. 1). Congress has fixed the date as Tuesday after first Monday in November of every fourth even-numbered year (62 Stat. 672, 3 U. S. C., sec. 1).
CONDUCT OF ELECTION	CONDUCT OF ELECTION	CONDUCT OF ELECTION
The legislature of each State may specify the places of holding elections for electors, prescribe the manner of voting, and provide for the appointment of proper persons to conduct such elections with authority to declare definitively the result, but Congress may by law make or alter such regulations.	No provision except as to manner of making returns. Within 45 days after the election the official custodian of the election returns of each State makes lists of the names of and number of votes directly received by each candidate for President and Vice President. Lists thus prepared by the custodian are sent to the President of the Senate.	Election not provided for, this being left to the States.
COUNTING OF VOTES CAST DIRECTLY BY THE PEOPLE FOR ELECTORS	COUNTING OF VOTES CAST DIRECTLY BY THE PEOPLE FOR PRESIDENT AND VICE PRESIDENT	COUNTING OF VOTES CAST DIRECTLY BY THE PEOPLE FOR ELECTORS
Left to the States, but power reserved to Congress to change any method adopted by a State.	The total vote for each candidate is certified by the State custodian to the President of the Senate, the votes are counted, as at present, upon being opened by the President of the Senate in the presence of	Although the Constitution does not require that electors be elected by popular vote, such is the practice. By custom (State law) the elector or group of electors receiving a plurality is elected, depending

	the House and Senate. However, each person for whom votes were cast for President or Vice President, as the case may be, in each State is credited with such proportion of the electoral vote of that State as he received of the total popular vote in the State. In making computations, fractional numbers less than one one-thousandth are disregarded.	upon arrangement of the ballot and method of voting adopted by the particular State.
CASTING OF VOTE BY PRESIDENTIAL AND VICE PRESIDENTIAL ELECTORS	CASTING OF VOTE BY PRESIDENTIAL AND VICE PRESIDENTIAL ELECTORS	CASTING OF VOTE BY PRESIDENTIAL AND VICE PRESIDENTIAL ELECTORS
The provisions relating to meeting of the electors and casting of ballots for President and Vice President is identical in substance with the present provisions found in amendment XII.	No provision, office of elector being abolished. The popular vote in each State is translated directly into electoral votes, each presidential and vice presidential candidate receiving electoral votes allotted, to the State in direct proportion to his popular vote within the State.	The electors meet in their respective States and each elector votes by ballot for 1 person for President and 1 person for Vice President (amendment XII). Congress may determine the day the electors give their votes but the day must be uniform throughout the States. Congress has fixed the day for the first Monday after the second Wednesday in December following their appointment (art. II, sec. 1: 62 Stat. 672; 3 U. S. C. sec. 7).
DATE FOR COUNTING ELECTORAL VOTES IN CONGRESS	DATE FOR COUNTING ELECTORAL VOTES IN CONGRESS	DATE FOR COUNTING ELECTORAL VOTES IN CONGRESS
The proposal is silent on this. Congress has fixed the time at 1 p. m. on January 6 following election of the electors (62 Stat. 672; 3 U. S. C. sec. 15).	The proposal specifies January 6 following the election, unless Congress by law appoints a different day not earlier than the 4th day of January and not later than the 10th day of January. [This removes possibility of old Congress, and particularly one called in special session after election day, acting or otherwise making a determination before the new Congress could be sworn in.] (See Lucas amendment in H. Rept. 1858, 81st Cong., pp. 2–5	Not fixed by the Constitution. Congress has fixed the time at 1 p. m. on January 6 following election of electors. Under amendment XX terms of Members of old Congress end and terms of Members of new Congress begin on January 3.

COMPARISON OF AMENDMENTS SUBMITTED WITH THE LODGE PROPOSAL (LODGE-GOSSETT RESOLUTIONS) AND THE PRESENT METHOD OF ELECTING THE PRESIDENT AND VICE PRESIDENT—Continued

DATE FOR COUNTING ELECTORAL VOTES IN CONGRESS—continued	DATE FOR COUNTING ELECTORAL VOTES IN CONGRESS—continued	DATE FOR COUNTING ELECTORAL VOTES IN CONGRESS—continued
Candidate receiving a plurality of the country's electoral votes would be declared elected, if the number he receives is at least 40 percent of the whole number of electors.	and CONGRESSIONAL RECORD, vol. 96, pp. 1152-1153.) Candidate receiving a plurality of the country's electoral votes would be declared elected. A Senate amendment to the Lodge proposal, Senate Joint Resolution 2, 81st Congress, was adopted adding the requirement that successful candidate must receive at least 40 percent of the whole electoral vote. This amendment was incorporated in the Lodge proposal, Senate Joint Resolution 52, presented in the 82d Congress.	Candidates receiving greatest number of votes for President if a majority of the country's electoral votes, is declared elected President.
In case of a tie—there are 2 candidates who have 40 percent but an equal number of electoral votes—the Senate and House in joint meeting choose one of them.	In case of a tie ("there are two or more candidates who have an equal and the highest number of votes") the one having the greatest popular vote is President (S. J. Res. 2, 81st Cong.).	In case of a tie—or if no candidate has a majority—the House of Representatives chooses the President by ballot from the three candidates having the highest electoral vote. In voting by the House for President, the vote is by States, each State having one vote: a quorum consists of a member or members from two-thirds of the States with a majority vote (25) of all States necessary to elect.
Voting by the combined House and Senate for President, the vote is per capita, each Representative and Senator having one vote; a majority vote of the combined authorized memberships is necessary to elect. Vice President elected at same time and in same manner as President.	Vice President elected at same time and in same manner as President.	Candidate receiving greatest number of votes for Vice President, if a majority of country's electoral vote, is declared elected Vice President.
In case of a tie for Vice President, the same procedure is followed as in case of a tie for President.	In case of a tie for Vice President, the same provision applies as in case of a tie for President, to wit, the one having the greatest popular vote is Vice President.	In case of a tie for Vice President or if no candidate has a majority—the Senate chooses the Vice President; a quorum consists of two-thirds of the whole number of Senators with a majority of the whole number necesary to elect.

SUCCESSION IN CASE OF DEATH OF PRESIDENT OR VICE PRESIDENT

Silent on this, thus leaving unchanged the present provisions of amendment XX.

QUALIFICATIONS FOR OFFICE OF PRESIDENT OR VICE PRESIDENT

Repeats the provisions appearing both in article II, section 1, clause 3, and in amendment XII to the effect that either the person voted for for President or the person voted for for Vice President by an elector must be an inhabitant of some other State than that of the elector. [This provision currently makes it highly improbable that the President and Vice President finally selected would come from the same State.] Silent as to other provisions in Constitution relating to qualifications, thus retaining them, to wit, under article II, section 1, clause 5 he must be a "natural born" citizen, at least 35 years of age, and have been a resident of the United States for 14 years; under amendment XII no person ineligible to office of President shall be eligible to office of Vice President.

SUCCESSION IN CASE OF DEATH OF PRESIDENT OR VICE PRESIDENT

Restates same provisions found in amendment XX, to wit, that Congress may provide for succession.

QUALIFICATIONS FOR OFFICE OF PRESIDENT OR VICE PRESIDENT

There being no office of elector it is obvious why section 2 outright repeals the provision appearing both in article II, section 3, clause 3, and in amendment XII to the effect that either the person voted for for President or the person voted for for Vice President by an elector must be an inhabitant of some other State than that of elector. [This eliminates present improbability of electing both a President and Vice President from the same State.] Although amendment XII is specifically repealed, the provision placed in that amendment that no person ineligible to office of President shall be eligible to office of Vice President is repeated.

SUCCESSION IN CASE OF DEATH OF PRESIDENT OR VICE PRESIDENT

Section 4 of amendment XX authorizes Congress to provide for succession. (See Presidential Succession Act of 1947, 61 Stat. 380 (62 Stat. 672; 3 U. S. C., sec. 19.)

QUALIFICATIONS FOR OFFICE OF PRESIDENT OR VICE PRESIDENT

Both article II, section 1, clause 3, and amendment XII provide that either the person voted for for President or the person voted for for Vice President by an elector must be an inhabitant of some other State than that of the elector. [This provision currently makes it highly improbable that the President and Vice President finally selected would come from the same State.] Article II, section 1, clause 5 fixes the qualifications of the President as a "natural born" citizen, at least 35 years of age, and a resident of the United States for 14 years. Amendment XII fixed the qualifications of the Vice President to be the same as the President by providing no person ineligible to office of President shall be eligible to office of Vice President.

Mr. PRENTICE. The other letters I would like permission to supply are 3 letters from Lucius Wilmerding, Jr., of the politics department of Princeton University in which he corresponded with Senator Smith and with me relative to Senate Joint Resolution 100. Those are the original documents which I would like to have inserted.

Mr. SMITHEY. Is Mr. Wilmerding available as a witness on this subject?

Mr. PRENTICE. I think he is. I wondered if these hearings continue whether it might be possible to request the professor to appear. He is quite an expert in this field and he has done a good deal of writing on that.

The CHAIRMAN. That request will be granted and the letters will be supplied for the record.

(The letters referred to are as follows:)

PRINCETON, N. J., *January 15, 1953.*

HON. H. ALEXANDER SMITH,
United States Senator, Washington, D. C.

DEAR SENATOR SMITH: I have looked over Senator Kefauver's proposed amendment providing for the election of the President and Vice President. It is, word for word, the same as Senate Joint Resolution 2, 81st Congress, 1st session—the original Lodge-Gossett amendment.

If adopted, this amendment would (1) require the electoral votes of each State to be divided between the several candidates for President in proportion to the popular votes cast for each within the State; (2) discontinue the use of intermediate electors; and (3) discontinue the umpirage of the House of Representatives in all cases where no candidate has received a majority of the whole number of votes, leaving a plurality sufficient to elect. Mutatis mutandis, it would do the same things in respect of the Vice President

Each of these proposals deserves serious consideration. I think you have seen my analysis of them in the Political Science Quarterly for March 1949. I analyzed them again in my testimony of April 18, 1951, before the House Judiciary Committee (subcommittee No. 1). I prepared this testimony with great care and in it I elaborated at length my objections to the proportional system of voting (pp. 51–55).

In this letter I can only give you my comments in capsule form. I shall examine the 3 proposed changes in reverse order.

The Umpirage of Congress.—I think that some fixed proportion of electoral votes should be made necessary to a final choice by the people. If you don't want an absolute majority, 40 percent as proposed in the final Lodge-Gossett amendment would do. In cases where no candidate has received a very large proportion of the vote, the person receiving the greatest number of votes may not in any true sense of the word be the choice of the Nation. He may, in fact, be totally obnoxious to a great majority of the Nation.

If the umpirage of Congress is retained, the vote, when the choice devolves upon it, should be by heads and not by States.

The intermediate electors.—At first blush it might seem to make very little difference whether the electors are abolished or retained. At the present time they serve only to announce the results of the popular election, as translated into electoral votes, and these results are known without their agency.

But I can conceive of circumstances in which the electors might be very useful in making majority opposition to a plurality candidate felt. "One advantage of electors," said Madison, "is that they may be able, when ascertaining that the first choice of their constituents is utterly hopeless, to substitute in the electoral vote the name known to be their second choice."

The proportional voting system.—This is the one reform that I cannot swallow. I am so convinced that the system of proportional representation is an invention of the devil, that I hate to see it introduced in any way into our institutions. I grant that it might do no particular harm, if applied merely to the distribution of the electoral votes or to the election of puppet electors. What I am afraid of is that, once recognized in any part of our system, it will come to be extended from a State's electoral votes to its representation in Congress.

I might also suggest that the system of proportional voting might also be difficult to reduce to practice. Would not every close election be a disputed election? And would not the dispute be conducted in every election district,

instead of only in a few, since a few votes anywhere might serve to turn the balance?

So much for my objections to the present proposals. My own notion is that the electoral votes should be distributed according to the principle of geographic representation. Let each States be divided by the legislature thereof into as many districts as that State is entitled to Representatives in Congress. Let each district choose 1 elector—or, if the electors are abolished, cast 1 electoral vote. Let the State at large choose 2 electors, or cast 2 electoral votes. Under such an arrangement the representation of the people in the electoral college (or the electoral vote) would parallel their representation in the two Houses of Congress, taken as a single body. This, I think, would be the simplest, and politically the most acceptable, mode of districting.

Needless to say, I'll be glad to help out in this matter in any way that I can.

Yours sincerely,

LUCIUS WILMERDING, Jr.

PRINCETON, N. J., *March 19, 1953.*

Senator ALEXANDER SMITH,
United States Senate, Washington, D. C.

DEAR SENATOR: I have been thinking about your letter of February 25, and I enclose the result of my lucubrations—the draft of a resolution for amending that part of the Constitution which relates to the election of President and Vice President of the United States. Stripped of formal phrases and minute provisions, it presents for your—and Mr. Prentice's—consideration eight distinct propositions:

1. To divide the United States into electoral districts.
2. To continue the use of intermediate electors.
3. To commit the appointment of the electors to a direct vote of the people.
4. To make the choice by electors definitive if a candidate has a plurality of at least 40 percent of the electoral vote.
5. To transfer the eventual election of President and Vice President from the House of Representatives and the Senate, respectively, to the two Houses together, in joint meeting.
6. To limit the number of candidates from whom Congress may choose to 3 persons, instead of to the persons having the 3 (or 2) highest numbers.
7. To require Congress to vote by heads instead of States when the eventual election devolves upon it.
8. To give Congress the same power over the election of a President and Vice President as it now has over the election of Representatives.

Naturally, I don't attach equal importance to all these propositions. I have two main objects—to establish the district system and to get rid of the eventual voting by States. And even these objects are separable. While I think it is useful to retain the electors, I would go along with their abolition providing that some method is kept for excluding from the Presidency a candidate who, though he may have a plurality of the electoral votes, is obnoxious to the majority.

The district system can, of course, be worked with or without intermediate electors. If you got rid of the latter, you would have to provide that the qualified voters of each State "shall meet within their respective districts and vote for a President and Vice President of the United States, one of whom at least, shall not be an inhabitant of the same State with himself; the person receiving the greatest number of votes for President, and the one receiving the greatest number of votes for Vice President, in each district shall be holden to have received 1 vote, and in each State, 2 votes," etc.

So far as the Coudert amendment is concerned, I don't see how you can use it unless you are willing to couple it with another amendment—or at the very least a statute—prescribing a uniform mode of voting, by districts, for Representatives. My reasons for saying this are set out on page 50 of my testimony of April 18, 1951, before the House Judiciary Committee. Such an amendment would be easy to draft. All you would have to do would be to take the first paragraph of my proposed amendment and change the opening words to read: "For the purpose of electing Representatives in Congress * * *."

The only objection that I can see to this course is one of expediency. It might be harder to get your reform of the electoral system through Congress if you made it depend on a reform of the system of electing Representatives.

Yours sincerely,

LUCIUS WILMERDING, Jr.

PRINCETON, N. J., *April 11, 1953.*

Senator H. ALEXANDER SMITH,
Senate Office Building, Washington, D. C.

DEAR SENATOR SMITH: The purpose of the sentence which you questioned in your letter of April 6 is to prohibit the States from laying off districts of unconnected territory, queer shape, or unequal population. It is, in other words, an antigerrymander provision.

The wording is, I concede, a bit oldfashioned. Possibly it would be better to say that: "Each such district shall be composed of contiguous and compact territory and contain, as nearly as practicable, an equal number of inhabitants."

When I used the phrase "the number of persons which entitles the State to a Representative in Congress, according to the apportionment," I had in mind that the Constitution has never made the whole number of persons in each State the basis of representation. Originally it excluded "Indians not taxed," and two-fifths of the slaves; it still excludes Indians not taxed. It seemed to me desirable to conform the language of the amendment, even in this small detail, to the other parts of the Constitution. But the point is of no practical consequence, and I shan't urge it.

I don't think you can say that the present congressional districts shall be used for the choice of electors. You must always remember that some States have no congressional districts, and others have fewer districts than they have Congressmen. To do what you suggest would, in my opinion, require the passage of a constitutional amendment imposing upon the States the single-member district system of choosing representatives.

I would support such an amendment, but ought it not to be offered separately? Two propositions, both of them favored by a constitutional majority in Congress, might, if put into one resolution, be defeated by a combination of minorities. If you don't agree, then I suggest that you change the opening sentence of section 1 to read: "For the purpose of choosing a President * * * and Representatives in Congress"; and that in the first sentence of section 2 you provide that the qualified voters in each district shall choose "one Representative to Congress" as well as one elector.

Section 5 is designed to give the Federal Government a controlling and superseding power over the State governments in the regulation of presidential elections—the same power that it now has over the regulation of congressional elections. But my notion is that the primary responsibility should be left to the several State legislatures. The antigerrymander provision of section 1 is addressed to them and should therefore, in my opinion, be left in.

Possibly, the last sentence of section 5 might be omitted. I put it in, ex majore cautela, as the lawyers say, for greater caution. But the power of the Federal Government to district or redistrict a State may be contained in the power to make or alter the State regulations which prescribe the manner of voting.

Yours sincerely,

LUCIUS WILMERDING, Jr.

The CHAIRMAN. Senator Mundt, did you want to testify on your bill?

Senator MUNDT. Yes, Mr. Chairman, if it is appropriate now.

The CHAIRMAN. I will be glad to have you testify or file any statement you want to.

(S. J. Res. 95 follows:)

[S. J. Res. 95, 83d Cong., 1st Sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States with respect to the election of President and Vice President

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as part of the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. Each State shall choose a number of electors of the President and Vice President, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress, in the same manner as its Senators and Representatives are nominated and elected. But no Senator or

Representative or person holding an office of trust or profit under the United States shall be chosen elector.

"SEC. 2. The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct list of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates and the votes shall then be counted; the person having the greatest number of votes for President shall be the President and the person having the greatest number of votes for Vice President shall be the Vice President, if such numbers be majorities of the whole number of electors chosen.

"SEC. 3. If no person voted for as President or Vice President have a majority of the whole number of electors chosen, then from the person having the highest numbers, not exceeding three, on the lists of those voted for as President and Vice President, the Senate and the House of Representatives, assembled and voting as one body, shall choose immediately from the respective lists the President, and then the Vice President, or either, as the case may be; a quorum for these purposes shall consist of three-fourths of the whole number of the Senators and Representatives, and the persons receiving the greatest number of votes for President and for Vice President on the respective roll calls shall be the President and the Vice President. But no person ineligible to the office of President shall be eligible to the office of Vice President."

STATEMENT OF HON. KARL E. MUNDT, A UNITED STATES SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator MUNDT. Mr. Chairman, I want to reiterate what I said on the floor of the Senate in support of the proposed constitutional amendment which has been introduced in the House by Congressman Coudert, of New York, and in the Senate by me.

The CHAIRMAN. We will make that a part of the record.

(The statement follows:)

ELECTORAL REFORM CAN HELP PRESERVE OUR LIBERTY

(Address by Senator Karl E. Mundt, Republican, of South Dakota, in Senate, June 30, 1953)

Mr. President, few systems or programs devised by the minds of men ever are so good that they cannot be improved. Our form of government which reflects our traditions and our way of life, most Americans believe is the best to be found anywhere in the world or in the annals of history. I emphatically share that point of view. Our American political system is truly unique.

However, Mr. President, as times and conditions change it is important that on occasion we review the machinery of our Government and the mechanics of our electoral system to make certain they are fulfilling the responsibilities set out for them and that they are functioning in a manner best designed to protect and perpetuate the basic American concepts and institutions which have for so long served to make our country great and keep it strong.

Today, I want to discuss very briefly a few factors in our electoral system to which I wish to direct the attention of the Congress and the country and on which I think we should all devote some study in an effort to make certain that our elective processes provide the maximum opportunity for the individual citizen to make his influence felt in the election of a President and a Congress regardless of how that citizen is registered politically or where he lives geographically. Under our cherished concept of government by the people it is important that each and every citizen who votes shall by that action be given the optimum opportunity to direct the destiny of his country's course by that exercise of franchise. Under our concept of majority rule, we never want our country's policies determined either by dictators in the flesh or by the dictatorial devices of electoral mechanics which operate to pervert and prevent the opinions

and the choices held by the majority of our citizens from becoming effective in the conduct of our Government.

On previous occasions, on and off the floor of the Senate, I have discussed what in my opinion are the valid reasons for evolving a political realinement in this country which will strengthen and expand our two-party system of government; which will enable citizens who think alike on economic and political questions to vote alike for President without having to surmount or break political barriers making that objective difficult; and which will eliminate the paradox which frequently finds within the same political party differing individuals and differing policies which are in violent and complete disagreement with each other but which are all merged under the same partisan banners at election time so that voters receive no effective opportunity to make a clear and honest choice betwen them at polling places.

In my opinion, a realinement of the political forces of this country is essential to the preservation of our American liberty with its concepts of private ownership, our reward of merit system, the continuance of our division and balance of power among the three great branches of our Government, the maintenance of the local autonomies guaranteed in the 10th amendment to our Constitution, and the concept that the people rather than the political bosses should ever be the rulers of America. I shall discuss this phase of our electoral system again on some subsequent occasion.

Today, however, I am introducing a joint resolution on the subject of electoral reform which provides another pathway toward the same destination envisioned as the consequence of steps taken toward political realinement and the development of a genuine two-party system in the South—namely, a goal which offers to each voter equal authority for his ballot and the optimum opportunity by his vote to determine the personalities and the policies which shall direct his Government.

With but minor changes, this joint resolution is the same as the one now before the House of Representatives where Congressman Frederic R. Coudert, Jr., of New York, has introduced it and where it bears the designation of House Joint Resolution 1. The constitutional amendment called for by these resolutions of Congressman Coudert and myself differ materially from the so-called Lodge-Gossett resolutions of the last session of Congress although in each instance the objectives which are sought are to increase and protect the importance of each citizen's ballot at the polling places of America.

Before going further, I want to pay tribute to the educational work already done by Senator Lodge, by Congressman Gossett, and by Congressman Coudert in this field of needed electoral reform. Each has contributed greatly to this area of information.

I especially desire to pay my respects to Congressman Coudert, not because he happens to be continuing his efforts in this field now that Senator Lodge and Congressman Gossett have entered other fields of important service but, because after long and careful study of all of the various proposals for reforming our electoral system I am convinced that the resolution introduced by Congressman Coudert most nearly provides a significant and satisfactory answer to the situation. Congressman Coudert deserves real thanks and praise for the pioneer work which he has already devoted to this subject. Therefore, it is with real pleasure that after numerous conferences with him and with others interested in electoral reform that I am associating myself with this effort by introducing today a companion resolution to that which Congressman Coudert has introduced in the House. In the main, there are no important differences in the language of our resolutions—they are identical in their objective and alike in their basic mechanics. We hope to secure hearings in both the Senate and the House on our joint proposals.

Quickly summarized, here is what Congressman Coudert and I propose: We recommend a constitutional amendment which will change the basis on which our presidential electors are chosen at election time from the general statewide, one-unit system now in vogue to one which will provide that our presidential electors shall be elected in the same manner and in the same number as the Senators and Representatives of each of our several States. Basically this is the sole and only change which we are advocating, except that in the event of there being no electoral majority, the final choice would be made by a joint session of Congress, voting by the head, instead of the present provision in which the House alone, voting by States with one vote per State, makes the decision. By substituting election by congressional districts for those 435 presidential electors corresponding to Members of the House of Representatives for the present system of election by statewide general 1-unit blocs of electors, how-

ever, Congressman Coudert and I believe many of the potential pitfalls and the present inequalities of our current procedure can be corrected and that our presidential elections can and will more faithfully reflect the desires and determinations of each individual voter in America.

What, then, are the advantages of changing from the general statewide system of electing these 435 presidential electors to the system of electing them as we do our Congressman—with 1 elector specifically elected by each congressional district and 2 electors elected at large in each State just as our Members of the Senate are elected? Let me list some of these advantages now in brief detail and on some subsequent occasion I shall discuss more fully here, or insert in the Congressional Record, the background reasoning contributing to each of the following declared advantages:

1. The election by districts rather than the statewide election system for choosing presidential electors would give each voter in this country an opportunity to vote for 3 presidential electors (1 from his congressional district; 2 from the State at large) so each voter would have substantially the same "vote authority" on election day whereas under our present system the voter in Delaware, for example, now votes for 3 presidential electors, whereas the voter in New York State votes for 45 presidential electors. Thus, each individual voter in New York State, due to the provisions of our present electoral system, packs 15 times the power into his individual ballot compared with the individual voter in the State of Delaware. In varying degrees, the citizen who votes for President in all of our smaller States is a "second class" voter compared with the individual citizen in our larger States, and in no other State does the voter "pack the punch" or have the authority or exercise the influence as the individual voter in the State of New York. At one time in our country's history, most presidential electors were chosen on the district basis which we now propose. It is obvious that our constitutional forefathers recognized that equality of opportunity in voting must carry with it the corollary that there should be equality of authority in the power of each citizen's individual ballot.

2. With voters using the same geographical units in selecting their electors for President as they do in selecting their Congressmen and Senators, it would follow that with the executive and the legislative officials elected by the same people voting in the same manner and with the same authority, we would find campaign arguments and platform policies developed in harmony with this new situation and the party that won an election for the Presidency would most likely win a similar victory in Congress, so that fixation of responsibility and opportunity for building a party record would be enhanced greatly in this country. Thus, this giving national political parties presidential power commensurate with their congressional power should provide an ideal situation.

3. Pressure groups and organizations of self-serving and selfish citizens would automatically find their national influence sharply curtailed once they were forced to "sell their wares" in every voting area of America rather than operating as they now do under conditions made ideal for pressure groups since they now concentrate on selected large blocs of electoral votes located in our metropolitan areas and in States with vast populations where the individual voter by his ballot has from 5 to 15 times the power and the determining authority of the voter in a smaller, a rural, or a Southern State. Those who would push our country leftward toward totalitarian centralized controls and toward national socialism would not be able to exert pressures on our presidential candidates and our party platforms and policies at all commensurate with their present power if each congressional district could elect its own presidential elector rather than having many States where great masses of voters in congested cities—frequently boss-led—providing a golden opportunity for pressure groups to threaten candidates for President with great blocs of votes delivered or withheld, in accordance with a candidate's willingness to "go along" with the selfish motives which have brought together these power blocs of organized voters. The power of such pressure groups would be in proportion to their actual numbers in the population.

4. The election-by-district system would give to both large and small States their proper weight, properly divided between their parties, in the election of a President and it would restore and preserve the balance between urban and rural areas, between great States and small ones, which was intended by our constitutional forefathers and which is established and recognized in our bicameral system with each State having two Members of the Senate and each State having the number of Representatives in the House to which its population entitles it. However, in each House of Congress each official casts a vote of like power and authority; Congressman Coudert and I propose that each of our

constituents—each voter in America—shall likewise have a vote of like power and authority in the election of his President.

5. Provide an opportunity for qualified citizens from any State to become candidates for President and for Vice President because no longer would our political parties have to play up to mass populations in large States by nominating candidates to "appeal to New York" to "get the California vote" to "hold Pennsylvania" or to "assure the vote of Michigan, Illinois, or Ohio." Henceforth, each candidate would have to appeal to all the people because each citizen would cast his vote for 3 presidential electors and there would be no statewide, 1-unit, power blocs of 45 or 32 or 27 votes or what-not. The presidential appeal would have to be, as it should be, to the individual voter in his place of residence—not to pressure groups, or organized blocs, or statewide units of electoral votes on the winner-take-all basis which now operates so that a handful of votes more or less in a State like New York, Pennsylvania, or California, for example, gives the victor the entire electoral vote even though 49.99 percent of the voters may have voted for the other candidate and for the opposition party.

6. Encourage the development of a two-party system in the South and a continuation of the salutary situation developed in the last campaign when President Eisenhower as a Republican presidential candidate for the first time since the War Between the States campaigned throughout the South with the same vigor and determination that he demonstrated as a candidate in Northern States. Virtually every Southern State now has at least one congressional district where "the vote is not in the bag" and where through cross filing, through a political realinement, through a coalition between like-minded voters, or through the orthodox operations of our two-party system, presidential candidates of both political parties would find it necessary and/or desirable to campaign for the votes of individual Southerners whose votes by districts would henceforth count as much and deserve to be courted as fully as the votes of individual voters in New York, in Chicago, or Detroit.

Mr. President, there are other continuing advantages as I see it of the electoral reform being sponsored by Congressman Coudert and me in our joint resolutions. I do not desire to belabor the record further at this time, however. I hope subsequent discussion and public hearings before the Judiciary Committees of the Senate and the House will continue these explorations into the merits of the change proposed.

As I understand it, a committee to study electoral reform has been created by the American Good Government Society which has its national headquarters here in Washington at 1024 I Street NW. This special committee plans to study and survey this as well as the several other proposals now before the Senate and House. Those desiring further factual data on the subject can secure it by writing to the American Good Government Society.

Eternal vigilance is still the price of liberty, Mr. President, and that vigilance must be devoted to the mechanics of our electoral system as carefully as we devote it to our security measures. For the mechanics of the system make the conditions that are decisive in the election process. It would indeed be tragic if practices which have grown up so pervert the proper functioning of our processes for electing a President that some day they should carry this country into a collectivistic state which the vast majority of all American oppose. Unthinking devotion to political labels, unworkable partisan groupings, and unequal weight accorded to the "vote power" of our individual citizens can all contribute to such an undesirable eventuality.

Senator MUNDT. Since then Senator Alexander Smith of New Jersey has introduced an amendment which is almost identical to the one introduced by Congressman Coudert and by me. The differences are very immaterial.

I am glad to have the committee analyze the bills. Senator Smith put his very great analysis, I might add, in the record today. It seems to me the time is long overdue and we should give recognition to the fact that electoral reform is needed in this country if we are going to make in fact the expression which we all so freely state and that is that the voting opportunity for Americans should be equalized and should be made equitable.

Under our present system of having statewide blocks of electors which are up on the bargain counter with every election, a difference

of a handfull of votes may make a difference of 40 electoral votes. Those voting for the losing set of electors in any of the large States find themselves disenfranchised when it comes to the electoral college.

Under the system proposed whereby the voters would vote for their electors, the same as they vote for Senators and Representatives and in the same manner and in the same number, the people of any area of the country would have the same opportunity when it comes to voting because each voter would have power commensurate with the power of another voter regardless of what State the voter happened to reside in.

Under the present system the State of Delaware has three electors. We in North and South Dakota have, I guess, four electors. But the State of New York has 45 electors. So that every voter voting in the State of New York casts 10 to 15 times as much power if he happens to vote with the majority as the voters cast who cast votes with the majority in North Dakota, South Dakota, or Delaware, or any of the other small States in the country.

I would like to call attention specifically to the list of what I consider very definite advantages in this proposed amendment as against the present system. I think there are six very specific ones. I will simply mention them briefly.

The first one is that it provides an equality of power and influence at the polling place for every American voter, wherever he votes.

The second advantage which I feel is involved in that is that it will provide that almost invariably you are going to have the same political complexion in the White House as you have in the Congress because the same people are voting in the same election districts, expressing their sentiments for the position and the platform and the personality represented by whatever party happens to be successful at the election time.

The third advantage is that it is going to prevent pressure groups and organized blocks of voters from casting undue influence by concentrating their efforts in heavily populated areas where big blocks of electoral votes are at stake. It means that campaigns would be waged on national issues and that they should make an appeal to people throughout the country, which is right and proper in a Republic like ours rather than to find the great emphasis at campaign time in a few congested areas and a few specialized issues which may have great significance to people in a large city or in a congested area of population but which over the country as a whole have no particular significance and no particular interest.

The fourth advantage is that the election by district system will provide that in every election you are going to have the balance between urban and rural areas, between large States and small States which was conceded to be important by our constitutional forefathers when they established in the Senate that there should be representation on the basis of each State having like authority, and in the House representation in conformity with the idea that every section of the country and every group of people, every specialized industry, every specialized interest, should also have this representation.

This would provide that same kind of balance and same kind of formula when it comes to the election of the President and the Vice President.

The fifth advantage which I see in this particular formula in this reform is that it would no longer limit the selections normally made by our two major parties to candidates living in certain populous States. As we know now, at both the Democratic and Republican conventions when they met, frequently of greater importance than the position of an individual and his capacity is the question of whether he can bring in the vote of California or whether he can control the vote of New York or Illinois or Pennsylvania.

I think a country like ours should recruit its candidates for President and Vice President from any of the 48 States which happen to have talent which is available and we should not give so much consideration to the geographic location of a candidate because he happens to be in an area where home-State enthusiasm and hometown loyalty is such that it would get him a great big block of legal votes.

The sixth advantage is that it would help do all things that which all good Americans would like to achieve, to bring the advantage of the two-party state to all States of the Union. It would tend to eliminate a situation which has not worked to the advantage of this country since the days of the War Between the States when we have 11 States which are normally considered to be in the bag for one of the two major political parties.

In all of those Southern States there are areas, there are individual regions, sometimes it is in the mountainous country, but there are places at least in all of the States of the Democratic South where there are strong groups and numbers of Republican votes. I think that that happy situation which prevailed in the last presidential campaign and for the first time since the War Between the States, when we found the Republican candidate campaigning as extensively through the South as in the North, should prevail in all campaigns.

It would tend to bring the South back into the picture from the standpoint of national elections. It would give it the power and authority and the significant and determining influence to which it is entitled because it is a great section of the country inhabited by many fine Americans.

Since in each congressional district down there they would be voting for 3 electors, 2 representing them because of their senatorial quota and 1 because of their congressional quota, it would be necessary for the candidates of both political parties to carry their message and to try to sell their wares in the South just as it would be necessary for them to do it out through the rural Midwest and in the congested areas of the big cities.

For those and other reasons which are set out in my address to the Senate on June 30, I have much hope that this committee will put on the calendar and put on the floor for consideration this proposed amendment. I think it is a step in the direction of preserving the freedoms and the liberties of American citizens and to give them the proper evaluation to the individual votes which they cast.

The CHAIRMAN. Senator Mundt, does your proposal differ very much from that of Senator Lodge?

Senator MUNDT. It differs somewhat from Senator Lodge's proposal, yes, because he provided for proportional representation. Instead of providing for proportional representation on a percentage basis, this provides for the same achievement and the same results in arranging for the electors to be selected by congressional districts. I think this

would more assuredly preserve the two-party system than the Lodge formula because it is not likely that third parties are going to become very prominent on a national scale if they find they have to expand their campaign activities to every congressional district in America.

The CHAIRMAN. Senator, are you familiar with the proposal of Senator George Norris, who was here in the Senate as chairman of the Judiciary Committee?

Senator MUNDT. No; I am not.

The CHAIRMAN. It was debated at great length. It was finally so amended by Senator Tydings, who led the fight against it, it provided for direct election, the popular vote of the people for the election of President and Vice President, that Senator Norris did not recognize it when Senator Tydings got through with it and Senator Norris did not vote for his own bill. That is my recollection. When they got through, Senator Norris voted the other way.

Senator MUNDT. I had the same experience in the House. The bill on antipollution was amended so badly that I voted against my bill when they got through with it.

The CHAIRMAN. You see, I have been on this committee for a long time. I have had a bill in for popular vote ever since I have been in the Senate. Mr. Lodge testified that he favored the election of the President by popular vote, but he said it could not be passed. His judgment was that there was no hope of getting it passed either by the Congress or by the various legislatures. He had various reasons for it.

About 4 years ago I remember we voted on the Lodge bill, maybe 3½ years ago. I remember Senator Humphrey offered an amendment to it. His amendment was pretty much like Lodge's, only a slight difference. My recollection is that he got 21 or 22 votes.

Then he offered direct election of the President by popular vote and, believe it or not, it got 32 votes. With Russell Long absent and paired, it was 33 votes, which was the highest vote ever received. Then they took it up with Senator Lodge again. As I said, Lodge said he would certainly be in favor of the election of the President by the people, except that he was satisfied it would not be passed, because of the opposition of the smaller States to it, the very argument you used a little while ago that each State has two Senators.

Have you given any thought to that matter?

Senator MUNDT. Yes, I have considered it at some length, Mr. Chairman. I rather feel that Senator Lodge is correct in believing that while you might get an amendment through the Congress in favor of a direct vote for President, it would have no chance of passing and being enacted by action of the several State legislatures because the smaller States I am pretty convinced would object to it.

The CHAIRMAN. This bill that Senator Margaret Chase Smith and I introduced perpetuates the 2-party system. In other words, the Republicans are going to run all their candidates and the highest man will be on the ballot. The same thing is true of the Democrats.

Senator MUNDT. I think this proposal would also protect the 2-party system, because it would require any third party venture to spread out into every congressional district of the country.

The CHAIRMAN. I am not worried about a 3d party, but the 10th or 11th party.

Senator MUNDT. A third party in our country does not do any harm because is eventually merges back in 1 of our 2 great parties. One of the things I worried about the Lodge proposal is the proportional representation feature which is one of the things that has brought out the chaotic situation in the Chamber of Deputies in France. I would hate to see that formula introduced in our American pattern which has been so successful in maintaining the 2-party system. We have changed the name of the two parties. We have changed the alinement of the parties, we have had important and useful third parties spring up, but they have always gone back to 1 of the 2 great parties. The danger is their splintering up into 10 and 11 parties.

As I say, I think the biggest reason why an amendment to do this by popular vote would be inadvisable as compared with this amendment is that either one, once having passed the Congress, has to be ratified by the State legislature. There are so many small States who would be reluctant to give up what you might say is the advantage that they now have because of the weight placed on the two Senators in the electoral college that when they debated it in Rhode Island, Maryland, North and South Dakota, and the smaller States of the Union, the legislatures would say, Why should we forfeit for our small State and probably the agricultural industry, which you and I know can always use a few more friends in Congress, why should we forfeit that strength that we have in order to get a more popular vote?

I am afraid there is another disadvantage in that system as compared to this. If it were a popular vote only, we might still see the emphasis at campaign time in the great centers of population where people come by the million, whereas in our State they come by the dozens. I think it is very important, it is good for the country for a presidential candidate to have to pretty well cover the whole country, meet with the people, see the problems. I think he is a better President after he is elected, because he has seen the country and met the people and campaigned in their own area, than he would be if he campaigned in a few congested areas.

Because of certain issues, certain emotional stress, and great campaign problems which arise at a particular time, he might pile up in a congested area so many votes that perhaps there would not be much attention paid to smaller States which have problems affecting the farmers, problems affecting little businessmen, problems affecting business people and householders which are just as important to them as the problems in the big cities.

The CHAIRMAN. Anything further, Senator?

Senator MUNDT. No; that is all. Thank you very much.

The CHAIRMAN. Thank you for coming over and helping us out.

Senator MUNDT. I have had the pleasure of being before the Judiciary Committee on other matters at different times and I know of no other committee that accords me more courteously and acts more wisely.

(The following statement was received subsequently for inclusion in the record:)

UNITED STATES SENATE,
Washington, D. C., October 21, 1953.

HON. WILLIAM LANGER,
Chairman, Senate Judiciary Committee,
Senate Office Building, Washington, D. C.

DEAR BILL: I would appreciate it if you would incorporate the attached statement with the other testimony that I submitted to your Judiciary Committee in connection with the Mundt-Coudert amendment. The attached statement is one which I prepared for use in the National University Extension Association Debate Handbook for 1953-54.

With best wishes and kindest regards, I am

Cordially yours,

KARL E. MUNDT, *United States Senator.*

THE MUNDT-COUDERT AMENDMENT[1]

By Karl E. Mundt[2]

Every voter in this country, whether he lives in California, Delaware, New York, or South Dakota, ought to have equal power in electing the President of the United States.

In all important respects save this one, our electoral system has proved itself. With but minor changes (though important in their effect) it has stood the practical test of time through 42 presidential elections, in peace and war, from George Washington to Dwight D. Eisenhower. After the first 4 of these elections the 12th amendment to the Constitution was added to require presidential electors to vote specifically for President and Vice President, rather than for two persons for President, the original provision, with the runner-up becoming Vice President. Since the 12th amendment became effective in 1804, 38 presidential elections have been held under the present constitutional provisions. Therefore, any system that has functioned so well for so long should not lightly be changed. Any changes proposed or made should be the minimum required to effect the desired and necessary results.

It is such minimum and practical changes that are proposed in the Mundt-Coudert amendment, which Representative Frederic R. Coudert, Jr., and I are sponsoring in the Congress of the United States. For adoption it must pass the Senate and the House of Representatives by two-thirds majorities in each House before submission to the States and then must be ratified by the legislatures of three-fourths (36) of all the States. No approval is required from the President or any governor. We believe, Congressman Coudert and I, that our proposed constitutional amendment will solve the problem with the very minimum of change in the Constitution. So that the simplicity of this proposal can be quickly grasped, the present provisions of the Constitution and the proposed provisions are given together. The matter in parentheses is what we would take out and the italicized matter is what we would put in. Careful reading will show that most of the second paragraph of article II of the Constitution would remain unchanged; and that the effect of the changes would be to substitute a better uniform method of electing presidential electors than the uniform method now in use in the States under State law. The present and proposed provisions of article II of the Constitution follow:

"Each States shall *choose* (appoint, in such manner as the legislature thereof may direct) a number of Electors *of the President and Vice President*, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress, *in the same manner as its Senators and Representatives are nominated and elected.*[3] But no Senator or Representative, or person holding an office of trust or profit under the United States shall be *chosen* elector."

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[1] Prepared for Selecting the President: The Twenty-Seventh Discussion and Debate Manual. Copyright 1953. All rights reserved.

[2] The Honorable Karl E. Mundt, United States Senator from South Dakota, has long been interested in the national program of discussion and debate in the high schools. He is cofounder and president of the National Forensic League.

[3] In H. J. Res. 1, Representative Coudert uses the word "chosen" in lieu of my phrase "nominated and elected." The Judiciary Committees of the Congress will decide the proper language.

In substance, what this proposed change means is this: The 435 electors of the President and Vice President who correspond to the 435 Members of the House of Representatives would be elected in the same congressional districts, or constituencies, in which the Representatives in Congress are now elected. No change would be made in the present manner of electing each State's 2 electors who correspond to its 2 United States Senators. They would continue to be elected statewide, just as all of each State's electors are now elected.

The effect of this simple change would be twofold and tremendous. In the first place, each voting citizen in the United States would have equal power and weight with his fellows in electing the President, just as he now equal power and weight with them in electing the Congress. In electing the Congress, each voting citizen votes for 2 United States Senators and for 1 Member of the House of Representatives. Under the Mundt-Coudert amendment each voting citizen would vote for 3 electors of the President and Vice President, just as he now votes for 3 lawmakers in the Congress. So far as the voting citizen is concerned there would be an equal separation of executive and legislative power beginning with him, the source of all power in the American political system. In the second place, and from the standpoint of the Nation, the President and Vice President would have exactly the same political base and constituency as the whole Congress. A majority of the electors would be elected by the same voters who elected a majority of the Senators and Representatives. The whole body of 531 electors of the President and Vice President (96 Senatorial and 435 Representative electors) would be a counterpart body of a joint session of Congress, as was intended by the Founding Fathers.

This counterpart body of electors was necessary to effect separation, at the source, of executive and legislative power, in keeping with the Federal-national principles on which the Constitution is founded. Not only did the Founding Fathers deny Congress the right to elect the President and Vice President, but they prohibited Senators and Representatives from serving in the capacity of electors.

Parenthetically, I would like to observe that the doctrine of separation of powers, a cardinal principle of the American political system, is often ridiculed by those who have become enamored of the principles underlying the omnipotent unitary political systems of European countries. Suffice it to say that those political principles are utterly inapplicable to the American political system, which is unique in the annals of mankind.

In the United Kingdom of Great Britain the House of Commons elects the Government (Cabinet) from its own membership, which, in turn, is itself elected in districts. Were the British to undertake a separation of powers, such as we have, they would have to set up a body of men counterpart to the House of Commons for the purpose of electing the Government from outside the Commons; and such a body would have to have the same political base in districts if the Government so chosen was to be expected to work in harmony with the House of Commons.

Before going into the evil political effects which the present manner of electing presidential electors has produced, and which constitute the problem to be solved in our constitutional framework, let us take a look at how this present method came about, and how and why the electoral system came to be. The eminent American historian George Bancroft, in his History of the United States (VI, pp. 339–340), brilliantly summarizes the work of the Constitutional Convention in regard to the election of the President. These are his words:

"And now the whole line of march to the mode of the election of the President can be surveyed. The Convention at first reluctantly conferred that office on the National Legislature; and to prevent the possibility of a failure by a negative of one House or the other, to the Legislature voting in joint ballot. Then to escape from the danger of cabal and corruption, it next transferred the full and final power of choice to an electoral college that should be the *exact counterpart* of the two Houses in the representation of the States as units as well as population of the States, and should meet at the seat of Government. Then fearing that so large a number of men would not travel to the seat of Government for that single purpose, or might be hindered on the way, they most reluctantly went back to the two Houses in joint convention. At this moment the thought arose that the electors might cast their votes in their own States and transmit the certificates of their ballots to the seat of Government. Accordingly, the work of electing the President was divided: the Convention removed the act of voting from the joint session of the two Houses to electoral colleges in the several States, the act of voting to be followed by the transmission of authenticated certificates of the vote to a branch of the General Legislature at the seat of Government; and then it restored to the two Houses in the presence of each other the same office of count-

ing the collected certificates which they would have performed had the choice remained with the two Houses of the Legislature." [Italic supplied.]

Adoption of the 12th amendment in 1804 eliminated the earlier source of intra-party friction and established a basis for more cohesive tendencies within the parties. Left unchanged by the 12th amendment was the provision that each State should appoint electors "in such manner as the legislature thereof may direct." In George Washington's first election the electors were chosen in a variety of ways: (1) By popular vote in districts or statewide on a general ticket; (2) by State legislatures; and (3) by combinations of the first 2 methods. Only 10 States appointed electors. New York's Legislature could not agree, and North Carolina and Rhode Island had not ratified the Constitution. This variety in the manner of choosing presidential electors continued through the election of 1800, and beyond.

Under the compelling forces of political necessity, however, and aided by the new provision of the 12th amendment, the movement toward a uniform method of "appointing" the electors made strong headway. The movement was in the direction of consolidating the full electoral (or presidential) power of each State into the hands of the dominant party in the State. Both "national" parties supported the movement. Each supported the movement in the States where it was strong and opposed it in States where it was weak. In the first election under the 12th amendment, in 1804, the electoral vote was divided in only one State, Maryland, which had a district system for choosing electors. Seventeen States took part in that election.

In the presidential election of 1808, in which the same number of States participated, the votes of New York, Maryland, and North Carolina were divided. In 1812, when another State had entered the Union, only Maryland's electoral vote was divided. In the fourth election under the 12th amendment, in 1816, when 19 States took part, each State cast a solid bloc of electoral votes, as in 1952. In the following election, 1820, all States would have cast solid blocs of electoral votes for James Monroe had not a New Hampshire elector decided that only George Washington should have the honor of a unanimous election.

Andrew Jackson's candidacy in 1824 caused the electoral vote of 5 of the then 24 States to be divided. Four men received electoral votes for President, but since none had a majority, the election was again thrown into the House of Representatives. John Quincy Adams was elected, although he had trailed Jackson 84 to 90 and had polled fewer popular votes. By the time Jackson had been elected twice, in 1828 and in 1832, the political parties had become pretty well organized and the general ticket or State bloc system for the election of electors was well established, although the electors in South Carolina continued to be elected by the State legislature through the 1860 election.

Since the Civil War the State bloc system of choosing electors by popular vote has been in almost universal use: there have been a few exceptions, none lately. The State bloc, or general ticket system for electors, to describe it more fully, is the system by which each elector is a statewide candidate for office—as governors or United States Senators—and the whole number of party candidates for electors in each State are so grouped on the ballot that the voter casts one vote for the entire party slate of electors. It is this arrangement which permits 1 party to elect its bloc of electors by a plurality of as little as a single vote—and this whether the number to be elected is 4, as in South Dakota, or 32, as in Pennsylvania.

Now we come to the heart of the matter from which the evils spring. The Pennsylvania voter shares in 32 presidential electors while the South Dakota voter shares in but 4. Yet they share and share alike in the Congress of the United States. Each has 2 United States Senators and each has but 1 Member of the House of Representatives. To give each voter an equal part in the election of the President of the United States is a primary purpose of the Mundt-Coudert amendment. Not only will the election of 435 Representative electors in congressional districts equalize the vote authority of the voters and bring the White House much closer to the people; it will eliminate most of the evils now complained of and produce good effects that are both desirable and necessary.

First and foremost among the evils of the State bloc system of electing electors of the President and Vice President is the domination of both political parties by a few big, doubtful, and pivotal States. Millions of television viewers saw this domination in action in the 1952 national conventions of the Republican and Democratic Parties. This big-State domination means, in practice, big-city domination. Party nominees for President and Vice President are chosen from the States with large blocs of electoral votes. Able men from the thirty-odd States having fewer than the average number of electors (11.06) are never con-

sidered when presidential nominations are made, except on a few rare occasions that are easily explainable in the then current political circumstances. Nor are the views of convention delegates from the smaller States given much heed if they are in conflict with the views that are believed to be necessary as political wearing apparel in the big-city States if the electoral votes of those States are to be won. All too often the decisive vote in the big-city States is believed to be cast in the big cities, where the organized pressure groups abound and account for not only the big-city machines but for some of the worst-governed cities in the whole wide world.

The decisive vote in a State in a presidential election is not so easily seen as the winning run in a baseball game. It is there nevertheless. A large majority in an election is a great comfort to the winning candidate and a cause for rejoicing among the leaders and the faithful of the winning party, but the extra votes are no more useful than the extra runs in a baseball game that comes when, with none out in the home half of the ninth inning, the local favorite hits a tie-breaking, grand-slam home run.

As a practical political matter, seeing the decisive vote in each State as making up the constituency of the White House is the heart of planning a presidential campaign—for election or reelection; and the political views and interests of this limited constituency become the foundation of administration policy and action. And it makes no great difference whether the administration be Republican or Democrat. The many occasions on which a President has taken grave decisions, and charted courses of action for the United States, in behalf of organized pressure groups in the big-city States, are too numerous to mention. But informed newspaper readers will recall enough of them to support the point.

As one illustration of the limited nature of the real constituency of the White House, as against the broad constituency of the whole Congress, let me cite the Taft-Hartley Act. It was passed in the 80th Congress to correct the antiemployer bias of the Wagner Act. It was repassed in the House and Senate by the necessary two-thirds majorities in each House, over a stinging veto by the President. In the 1948 and 1952 presidential campaigns there was much talk, on the one hand, of repeal of the Taft-Hartley Act and, on the other hand, of merely weakening it by amendment. Nothing has been done as yet. The point here is that the demand for repeal comes from strong elements in the limited White House constituency, while the demand for its retention and even strengthening comes from the broad national constituency of the whole Congress.

In order to bring into focus this matter of a limited White House constituency, made up of a few decisive votes in a few large States, I will cite a few facts. There are 15 States that have 12 or more electoral votes and 33 States that have 11 or less. The average is 11.06 electoral votes. The larger 15 States possess 313 of the 531 total of electoral votes—47 more than the majority of 266. The smaller 33 States have 218 electoral votes.

The 15 larger States are: New York, 45; California, 32; Pennsylvania, 32; Illinois, 27; Ohio, 25; Texas, 24; Michigan, 20; Massachusetts, 16; New Jersey, 16; North Carolina, 14; Indiana, 13; Missouri, 13; Georgia, 12; Virginia, 12; and Wisconsin, 12 (total, 313).

In the light of these facts, how does a presidential candidate or national campaign manager, Republican or Democrat, go about making his plans? His first step, most likely, would be to remove the four States of the so-called Solid South from his calculations, as being nondoubtful. This would reduce the number of large States to 11 and the number of their electoral votes to 251. These 11 States would be the crucial area of contest in the election; and in them only 11 decisive votes are involved.

I do not mean to say that the smaller States are entirely overlooked. I do say that, because of their far lesser weight in the electoral scale, they are put in a far lower category of importance in presidential elections. Under the State bloc system of electing electors a presidential candidate or campaign manager would be more than foolish to do otherwise. My strictures is not against the candidate or his manager but against the system within which they must operate. To change from the State bloc system to the purpose of the Mundt-Coudert amendment.

Under the present State bloc system for electing electors the heavy emphasis of the campaign must necessarily be on those few decisive voters in the few large, doubtful and pivotal States, which are pivotal because they are necessary to make up the minimum majority of 266 electoral votes that the winning presidential candidate must have.

Consider now the political calculations of the party chairman of the respective congressional campaign committees. Concurrently with the presidential campaign, which is focussed on a limited constituency of a very few decisive votes, the congressional campaign chairman of the 2 parties are concerned, overall, with the decisive votes in 435 congressional districts, or constituencies. The aim of each party chairman is to elect at least 218 members of his party to the House of Representatives, so that this majority of the body can name the Speaker, chairmen of the standing committees and enjoy the prerogatives of "majority status."

In making his plans, each chairman excludes from practical consideration the seats held strongly by his own party and those held as strongly by the opposition party (usually, seats won by 55 percent of the total vote are considered strongly held). This almost automatic exclusion narrows the field considerably—from 435 to something less than 100 seats. This, then, becomes the area of political contest between the parties for control of the House of Representatives.

There is, of course, a decisive vote in each of these 100 minus congressional districts, as there are in each of the 11 large, doubtful and pivotal States. Each of these districts is considered doubtful and pivotal but none of them is large. Nor are the decisive votes the same as in the 11 big-city States and cannot be won on the same terms. For many House seats are won by X-party in States that it loses heavily in presidential elections. For example, in 1936 Roosevelt won New York's 47 electoral votes by an overwhelming majority, yet the opposition party (Republican) won 16 of the 43 House seats.

I have undertaken to show the tremendous divergence between the broad political base of the House of Representatives and the much, much narrower political base of the occupant of the White House, the effect on party conventions of the narrower White House base, and on the rest of the country's political representation. This divergence, I believe, is the main source of ideological conflict between the White House and the Congress, in natural response to their respective constituencies. To correct this situation there are but two alternatives: If the presidential electors are to continue to be elected under the State bloc system, then, the Members of the House of Representatives ought to be elected on a State bloc basis, as representatives at large of their respective States. On the other hand, and for a host of reasons that cannot be touched on in this brief article, I believe that the political base of the White House should be broadened by the adoption of the proposed Mundt-Coudert admendment as a part of the Constitution of the United States. Thereby the President would be brought almost as close to the people as the House of Representatives.

The CHAIRMAN. You do solemnly swear that the testimony which you shall give in this matter shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BEATY. I do.

TESTIMONY OF JOHN O. BEATY, BARBOURSVILLE, VA.

The CHAIRMAN. Will you be so kind as to state your record in the past, your history, starting with your college education?

Mr. BEATY. I am a graduate of the University of Virginia, where I majored in languages and have my master's degree in Romantic languages.

I went to Columbia where I took a doctor's degree.

I was at Columbia from 1914 to 1917. At the end of World War I I became a second lieutenant. At the close of that war I went to the University of Montpelier in France where I continued my study of French and European civilization.

I returned to this country and became a professor in Southern Methodist University. I was assistant professor first, and now I am still a professor in Southern Methodist University. I am professor of English.

I kept up my Reserve work, however, and in 1927 I was selected to travel abroad under the Kahn Foundation, which is a foundation that

no longer exists. They selected 1 American professor, 1 English, 1 French, 1 Japanese, 1 German professor, to travel each year and report on the world situation, and then they would compare these reports derived from 1 selected man from each of these great powers.

I learned a very great deal about the world situation at that time and found that World War II was almost certain to happen. I found that out as far back as 1927. I was not able to get my views published, although my previous books on poetry, drama, things of that sort, were and still are selling well. My political views were not welcome.

In case anyone should doubt this and say that is reorganizing the present to suit the past, I did publish my views on the world situation in our local magazine, the Southwest Review of Southern Methodist University in 1927. I devoted myself then to doing what I could to telling people of the world dangers and the War Department learned that I had traveled and learned as I had, so I was transferred from troops to staff work.

At the beginning of the tension with foreign countries, World War II, I was alerted, and I came to the War Department as captain and worked about 5½ years with Military Intelligence, I was promoted to major, appointed to the General Staff Corps, promoted to lieutenant colonel, and was finally made a colonel, in which capacity I was called to active duty one summer to write the history of the Military Intelligence Service for the War Department, and was called another summer to prepare a reading list for the Intelligence officers in the Military Intelligence Reserve.

So I have carried on this career, teaching, and as an Army staff officer in the field of intelligence, carried those on together, and I retired a Reserve colonel, drawing my Reserve stipend of one-hundred-and-some dollars a month, and this past April received my honorable discharge after 35 years in the Army as a Reserve officer and officer on active duty.

I believe that is sufficient. My other writings are not overly significant from an Intelligence point of view.

I have a novel, Sword in the Dawn, that has been published in Australia as well as in this country, a book Image in Life, published in New York by Thomas Nelson, in which I tried to tell the story in 1940, but the book had no sale at all, probably not over a hundred copies. It got no reviews, no publicity. So this time when I closed the book, I decided to publish it under circumstances where I could control it more, publish it in Texas.

The CHAIRMAN. Mr. Beaty, you say you have read all the bills?

Mr. BEATY. Except this last one of Senator Smith. It is essentially the same except for the wording of Senator Mundt.

Now, I made copies of my statement which I would be glad to turn over to you. I brought one for each member of the Judiciary Subcommittee.

The CHAIRMAN. Go right ahead.

Mr. BEATY. Senator Langer was kind enough to ask me to appear before this committee because of the experience that I have had in matters pertaining to government, particularly in my long service in the Military Intelligence in the War Department, and those matters finally having been brought into concentration and focus in a book,

The Iron Curtain of America, which you mentioned in your letter in which you invited me to come.

The CHAIRMAN. Which I might say is one of the outstanding books of the year. I think it ought to be compulsory reading in every public school in the United States.

Mr. BEATY. I have divided my statement into several sections. The first is only a minute and a half in length, but it does not give anything new. I will read it, though.

Since a half-dozen popular votes, or even one vote, may determine the whole electoral vote of a State, our national elections in recent years have to a considerable extent degenerated into a vicious effort to carry those States which have many people and a correspondingly large number of electoral votes.

For big blocks of delivered votes the directors of a political campaign have learned how and where to work. Votes, given for a price, are in general not to be secured from Americans of older stock, for these persons either have a political affiliation already, or vote according to their conscience, or both.

In our States with great cities, however, there are many hundreds of thousands of persons, largely of Eastern European origin, who do not adhere to the principles of American civilization. Such people, alien in origin and ideals, are ready to vote for the political party which will carry out their objectives. These objectives have included unnecessary war, with great loss of life for American boys and young men; they have included an immigration policy which has brought millions of unassimilable aliens including an untold number of Communists and Communist sympathizers into our country; they have included an utterly ruinous foreign policy.

Details of all these tragic results of our present electoral system are known to the gentlemen of this subcommittee. I am submitting as an annex to this statement a lengthy consideration of the power exerted upon the policies of the United States by alien minorities and will not elaborate further upon the subject.

I meant to bring five copies of my book to distribute it. I will send it to you for passing out to the committee. Those details, in case anyone should want them, are given in length there so I will not go into them further.

Now, then, can we avoid the present system under which minorities in our populous States deliver their votes and carry an election for their hideous price, which is, in effect, the ruin of our country?

Now, that is a preliminary. This is the basic principle it seems to me we have to consider I now give. I have put it here in capital letters.

In order to be ratified by the legislature of 36 States, the proposed amendment must make the least possible change in the Constitution, must be simple in wording and must protect the present constitutional rights of small States.

Those points, of course, are points to make it easy to get it ratified. Some of the bills now before the Senate provide for mandatory presidential primaries. Whatever may be thought of this proposition, it certainly should not be a part of any proposed amendment pertaining to the electoral college. If a provision for mandatory presidential primaries is a part of the proposed amendment it will, in my opinion,

kill all chances of the ratification of the amendment. At least 13 States would almost certainly turn down a proposal which would represent further Federal encroachments upon their present prerogatives, and 13 States can block any amendment. In my opinion if any Senator or Congressman is sincere in his proposal for mandatory presidential primaries, and is not merely using it to kill any chance of electoral college reform, he should introduce another appropriate proposed amendment entirely separate from the question of electoral college reform.

In other words, to summarize, I think there are two separate cases there and you get them up separately and be fair to the electorate and each one would have a better chance.

Whatever one may think of its merits, any proposal to elect Presidents by nationwide popular vote, with no reference to States, is also in my opinion doomed to certain defeat. To a large extent the less populous States live now under laws made for them by the more populous States, and no one can expect them to toss away voluntarily the slight protection now afforded them by their electoral votes.

I have been rather intimately associated at one time or another with one of the small States and I know their attitude toward that. They cling to that electoral vote as one thing that makes them big in comparison with the other States.

Now, objections to the election of President and Vice President by a 40-percent vote and to fractional electoral votes.

The proposal that a President or Vice President could be elected by 40 percent of the total vote should by all means be eliminated from any bill. Such a provision is hostile to the fundamental American tradition of government by majority and not by minority. If a 40-percent law were on the books today in France, that country would almost certainly be completely Communist, for in recent elections the Communist Party has been the largest party in France, and with the help of left-wing Socialists might easily muster a 40-percent vote and come to power. It is not far from 40 percent now, in recent elections. After that there would be no more free elections, 40-percenters or otherwise.

With the 40-percent clause stricken out, I think the old Lodge-Gossett proposal, many of the provisions of which are included in bills now before the Congress, is greatly superior to the present system. I think of course that the direct popular election is greatly superior to the present system, too. I fear, however, that it is a little too complicated to be easily and quickly understood by the general public and that in consequence pressure will not be placed upon State legislatures to vote for an amendment with these provisions, and that therefore, the proposed amendment might fail of ratification. I refer in particular to the splitting of the individual electoral vote into fractions of thousandths. The principle is not necessarily wrong, but it is new and would certainly require much explaining and publicizing.

The State legislatures meet and I know the main problem is how to get tax money for the projects they have before them. Any bill of this nature which does not concern the internal welfare of the State as they see it immediately is likely to get sidetracked unless it is very simple. That is why I am speaking for a simple bill.

Finally, since I know the ill effect of proportional representation in France, I am opposed to introducing the principle here, even in a

measure as generally desirable in its objectives as is the Lodge-Gossett proposal.

To sum up, it seems to me that the proposal put forward by Mr. Mundt in the Senate and by Mr. Coudert in the House is to be preferred above the others.

It is by far the simplest, since it requires no significant change in our procedure in our quadrennial elections for President and Vice President except the insertion into the Constitution of a phrase "in the same manner as its Senators and Representatives are chosen" (Coudert bill).

There should perhaps be a clarifying requirement (presumably in a law rather than in the amendment) to the effect that those States which are entitled to more than one Congressman shall divide themselves into districts of contiguous territory and comparable numbers of people. That is not a new bill but that is what they do now, more or less. There should perhaps be a further provision that if the national censuses continue to be held as hitherto in decennial years, those States showing a gain in population entitling them to one additional Congressman or more, and therefore to one additional elector or more, shall be permitted to elect their additional elector or electors at large; and that States losing a Congressman or Congressmen shall have the privilege of choosing all their electors at large in the national elections of 1960, 1980, 2000, and subsequent years in which a national census and a presidential election fall in the year. That is a suggested method for coping with the census reports coming out just before an election.

Since the requirement just suggested represents our present procedure, there is nothing new to persuade the State legislatures to adopt except the simple general provision of electing by districts all but two of a State's presidential electors.

Senator Mundt's bill is the same as Representative Coudert's except for the phrases already quoted. Both bills also contain a proposed change in the Constitution regulating the procedure when no candidate has a majority of the electoral vote and the choice of a President devolves upon the Congress. I think the committee should eliminate the proposed change which provides that in case no candidate has a majority of the electoral vote a President and a Vice President shall be chosen by the Senate and the House of Representatives, assembled and voting as one body. That is in the Mundt and the Coudert bills.

I see no great objection to this part of the Mundt-Coudert proposal except that in reducing the present rights of smaller States it is likely to prevent their ratification of the amendment.

You understand this proposal that they have.

The CHAIRMAN. Yes.

Mr. BEATY. Now, the election of an elector by a district is a step in bringing the Government closer to the people. In large States few people know the names of candidates for electors; in fact, many of them do not know that a slate of electors exists. It thus seems that people might understand their Government better and take more interest in it if they help choose their own elector in their district as well as two electors in their capacity as citizens of the State.

The election of electors by districts should go far toward ending the political power of the gangster, the organized alien minority, and other

undesirable elements. Under the present plan, these elements may, by their overwhelming number of votes in certain areas, name every elector of a State. Under the Lodge-Gossett plan and similar plans, their power would be much curtailed, and the opposition would get some electoral votes. Nevertheless, huge turnouts of regimented minority blocs, fraudulent votes, and so forth, would still affect the outcome in the whole State. Such an issue might be significant; for instance, in case the rural vote should be small because of adverse weather conditions. Under the Coudert plan, this would not be possible. Any increase of the votes by manipulation of the ballots—or any decrease by adverse circumstances—could affect the outcome in only one electoral district and not in the State as a whole, except for the two electors chosen, like Senators, from the whole State.

The CHAIRMAN. That is very, very interesting, indeed.

Mr. BEATY. It is based on the facts as they are and on the world situation as I know it in France and is intended to consider not merely the virtue of the measure but the likelihood of its being passed. As I said before, I would be glad to have direct elections as a great improvement over the present situation. The Lodge-Gossett proposal and the representative system is an improvement over the present one. But I believe this last one will achieve the results we are after, with considerable likelihood of its being ratified by the legislatures of three-fourths of the States.

I believe that the other will stand much less chance of ratification.

I believe that is enough, sir, unless you would like to ask some questions.

The CHAIRMAN. I was very much interested in your views.

Mr. SMITHEY. I have a few questions to address to Colonel Beaty.

Colonel, you have indicated that you support the Mundt-Coudert proposal as much as the others for the reason that they have greater opportunity to be adopted.

Mr. BEATY. I think so. That is the principal reason for it. In other words, it changes the Constitution much less than the others. I asked Mr. Mundt in his office the other day if he would object to taking out that section of 3 of his bill which would provide for the procedure when the election was thrown into Congress. He said he would not.

The basic principle of what he wants and what I presume Coudert wants is not changed if you take this number 3 out. I do not object to this number 3, you understand.

The CHAIRMAN. It is a cold-blooded matter of ratification.

Mr. BEATY. Yes, it is just a question of getting it by the State legislatures. It is one more infringement on the rights of the States. Probably 3 or 4 might object to it, but those 3 or 4 might be the deciding 3 or 4 of the 13.

Mr. SMITHEY. Some people urge that there are some advantages and disadvantages to this proposal. I would like to present them to you.

Under the present setup in some States, as you know, the electors are chosen by a single shot, that is, there is just one name that appears on the ballot and he is the one voted for, although there is a full slate of electors.

In other States the full slate of electors is shown on the ballot and the voters hardly know for whom to vote; in other States the Governor appoints the electors after the results have been announced.

Is it your feeling that if the Mundt-Coudert proposal is adopted that at least one of the advantages to be enumerated would be that those electors would be known to the voters who voted for them?

Mr. BEATY. Yes. I mentioned that in this paper that each man, all of them who voted, would have just 3 electors, 2 representing the State as a State unit, one representing his district. He would know that. I think there is something to be said in favor of that.

Mr. SMITHEY. Now, is there anything in either the Coudert proposal or the Mundt proposal which would prevent the so-called free-wheeling elector, that is, a person such as we had in Tennessee in the 1948 election who, contrary to the popular vote in his State, voted against the popular choice?

Mr. BEATY. No. That is allowed under the Constitution now and would still be allowed under the new bill.

Mr. SMITHEY. Now, do you consider that desirable, Colonel?

Mr. BEATY. I do not believe that is an issue at the present time. I think you enter something that is deep and involved there and something that also would block the ratification of the amendment. I think that has happened only in a few relatively insignificant cases. It may be that it ought to remain possible, at least it is possible that some significant information might develop between the time the elector is chosen and the time that the elector actually casts his vote. I do not believe I would enter into that here because immediately State legislatures would say, well, this has come up, maybe 1 vote cast in Tennessee, and they can think back 1 or 2 votes went that way, but it would make the thing seem not so significant if you bring that in.

Mr. SMITHEY. There are 2 or 3 proposals before this committee. You mentioned the Smathers proposal, for instance, and the Kefauver proposals, which are largely the Lodge-Gossett proposals and the Humphrey proposal. The elimination of the freewheeling elector is one of the advantages that has been listed for the Humphrey and the Kefauver proposals.

Now, as long as a voter votes for an elector who is free to do as he wishes or to vote for whom he pleases, we do not then vote for the President of the United States or Vice President of the United States, that is correct, is it not?

Mr. BEATY. We vote now for electors who elect the President. That is the way we do now in all the States.

Mr. SMITHEY. We would continue to do so under the Coudert and Mundt proposals?

Mr. BEATY. That is right.

Mr. SMITHEY. We would not continue to do so under the Langer, Kefauver, and Humphrey proposals; is that not true?

Mr. BEATY. We certainly would not under Senator Langer's proposal to vote by popular election.

Mr. SMITHEY. In any case where there was a proportional split according to the popular vote cast that would likewise be true?

Mr. BEATY. Yes; that is the Lodge-Gossett proposal. That is quite true.

Mr. SMITHEY. I think you may have discussed the next proposition in your statement. If you did, it might be well to review it at this point.

One distinction between the Mundt proposal and the proposal of Senator Smith of New Jersey is that Senator Smith of New Jersey

requires that the districts in which the electors are selected be redistricted according to population and contiguousness.

Mr. BEATY. I made that suggestion.

Mr. SMITHEY. I thought that was one of your suggestions, as I recalled it.

Mr. BEATY. Yes.

Mr. SMITHEY. You would adopt that in Senator Smith's bill?

Mr. BEATY. I do not know enough about the constitutional law to know whether it would be necessary to have that in the amendment or whether it could be in an implementing act of Congress. If it could be in an implementing act of Congress, I think it would be better. In other words, we do that now in practically all States. Texas has one delegate at large. I believe your two are both at large, Senator Langer. But in a great majority of States now we do have congressional districts, and we are providing in these two, the Mundt and Coudert bills, that we shall elect electors the same as we now elect Senators and Congressmen.

The CHAIRMAN. Do you know, Colonel Beaty, one of my daughters wrote in an election in New York she had a list of 185 names. She did not know who she had voted for. By direct vote of the people, by popular vote, the fellow would vote either for Dewey or Roosevelt or Truman or Eisenhower. Don't you think that people at large would be a whole lot better satisfied if there was some indication on the ballot somewhere? Here are two men running, Mr. Eisenhower and Mr. Stevenson. Yet in some States the name does not even appear on the ballots.

Mr. BEATY. I think it should state there that these are the Eisenhower electors, these are the Stevenson electors. That certainly should be on the ballot or some equivalent words. That is, if we keep the present system, we should at least indicate that these people are the Democratic—Stevenson—electors or these people are the Republican—Eisenhower—electors. That is choosing names from the last election. That should be made clear to the voters, especially in view of this long ballot you are talking about.

The CHAIRMAN. Are you not still in a way getting away from having a full expression by the people, when you meet in a convention and they nominate a certain man for the Republican candidate?

Mr. BEATY. I am not speaking at all against the primaries electing the Presidents, choosing the Presidents in the primaries. I am just suggesting that that be presented to the State legislatures in another amendment and not in this one.

The CHAIRMAN. You have not expressed yourself on that.

Mr. BEATY. I have not studied it very much.

The CHAIRMAN. I wish you would express yourself on it. I would like to have your feeling about this primary.

Mr. BEATY. I am afraid that I have not studied how it works out in different States well enough to have an opinion on that. In other words, I would like to leave that as something which I do not know about.

The CHAIRMAN. Now, I remember a few years ago when I was a young fellow out on the farm I sat on the porch and we got the evening mail. They were having a convention. I have forgotten where, but the Fargo Forum said the whole convention is waiting for the arrival of Andrew Mellon, that for some reason he could not

get there the first day and they could not do much. They were waiting for Andrew Mellon of Pennsylvania to arrive. When Andrew Mellon got there he would say who the candidate was.

Now, the criticism is that at the present time a bunch of fellows would get together in a smoke-filled room, discuss various candidates and sit there and finally pick out the fellow, and he is their candidate. A couple of weeks later in the same room perhaps will be another party, they will pick another candidate, and a fellow, for example, who is opposed to World War II had no choice between Mr. Roosevelt and Mr. Dewey, yet a man like Burton K. Wheeler went out to Los Angeles and had 108,000 people at 1 meeting, all of them opposed to America's entry into World War II. Yet the people had no chance to express themselves in that election.

It seems to me that in a primary, for example, in the last election, the Republican Party, every one of their candidates, Mr. Taft, Mr. Dewey, Mr. Eisenhower, and all the rest of them, could all enter. The same thing is true of the Democratic Party. One fellow could say I am absolutely opposed in getting involved in this foreign situation. That is what the people of the United States really want, a chance to express themselves.

Instead of only half the people voting, roughly, we would get 90 or 95 percent of the people to the polls.

I remember talking to hundreds of people who did not go to the polls because, they said, "What is the difference whether we choose Mr. Dewey or Mr. Roosevelt?"

I am particularly interested in getting your views on that.

Mr. BEATY. I have never studied fully the question of the primary. I have not gone into it with the thoroughness I like to go into a thing before I express myself officially on it. Do you understand what I mean? In other words, when I am making speeches on foreign affairs, I refuse to answer a question on labor. I refuse to answer questions on banking and currency. I just say I do not consider myself an expert. I do not consider myself an expert on success with primaries or success with a convention in the States. I know that in a State as large as Texas there are objections both ways. The State is so tremendous that a man who wants to make a State campaign cannot do it unless he has—I hear this thing in Texas—$50,000. You see what I mean?

The CHAIRMAN. Doesn't radio and television entirely eliminate that objection?

Mr. BEATY. It certainly goes a long way to do it. Certainly it sounds better to have the people chosen by the direct vote of the people—I mean have the candidates chosen by the direct vote of the people—but I do not consider myself an expert on that. I just feel that some of these other matters I have studied more; that it is an obligation almost not to make a decision unless I feel I am thoroughly informed on how this thing works out. In my personal experience, I do not know.

The CHAIRMAN. I am sorry about that, because I was looking forward with a lot of interest to your views on that. I said to myself there is a gentleman who knows what would be best in that kind of situation.

Mr. BEATY. In Texas our radio is censored; in Texas our newspapers are censored, both the radio and newspapers. They will not receive and publicize anything that is not satisfactory to the advertisers. How a man in a State the size of Texas will get the principles that he is advocating before the people of Texas it is hard to see.

The CHAIRMAN. Bob La Follette, Sr., had over 5 million votes, and he did not have radio and television, and the big papers were uniformly opposed to him. I know in my State not a single daily supported him. I managed his campaign. I managed his campaign in North Dakota. Yet we carried the State. We went to Cleveland to a convention. Mr. La Follette got up—I think he had his own platform of 33 planks. They called him and introduced him on the floor, and the only State that voted with him was North Dakota. Yet today every single plank that Mr. La Follette, Sr., advocated at that convention has been adopted by the Republican Party, every one except the direct election of the President by the people. That is the only one that is left. Of course, I remember when he spoke in New York. The papers came out and said, "The man is intoxicated." Do you remember that?

Mr. BEATY. No, sir; I don't remember that.

The CHAIRMAN. They sent word out all over the country that in plain words he had been drunk when he gave his speech. There was no way he could answer it. But today with radio and television he could reply to that. I do not know how much that hurt him if it hurt him at all. It might have helped him, as far as I know. But the impression was out that he is very, very radical. You remember that?

Mr. BEATY. Yes; I do.

The CHAIRMAN. It seems to me in this last election what objection could there have been if Mr. Taft or Mr. Eisenhower or the rest of the Republicans had had their names some place where the rank and file could make the choice. The result might have been the same, but there would have been a much, much better feeling.

Mr. BEATY. I would say that the Republican convention in Texas last year and the whole management of the thing was certainly an argument in favor of some other system because it was very hard, judging from what one read in the papers, very hard to have a full understanding of just who was entitled to the vote of Texas. Finally, as you recall, in the convention they undertook to split it but not as I recall—understand, I was not at that convention—undertook to split it just to pass some of it to one and some of it to the other rather than with the idea that the convention had positively taken one stand or the other.

The CHAIRMAN. We are very, very grateful to have had you here.

Mr. BEATY. Thank you, indeed. I would welcome the Lodge-Gossett, Mundt, or Coudert proposals as better than the one we have. All I want to do is get something that will preserve the Constitution and at the some time modify the present situation with as little change as possible, because with as little change as possible, we will get it through the State legislatures.

(Whereupon, at 4:35 p. m., a recess was taken subject to call.)

NOMINATION AND ELECTION OF PRESIDENT AND VICE PRESIDENT

SATURDAY, AUGUST 1, 1953

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met at 3 p. m., pursuant to call in room 424, Senate Office Building, Hon. William Langer, chairman, presiding.

Present: Senator Langer.

Also present: Wayne H. Smithey, subcommittee counsel.

The CHAIRMAN. The hearing will come to order.

I understand that Mr. Wilmerding has to catch a train, and I will hear him first.

Mr. Lucius Wilmerding?

STATEMENT OF LUCIUS WILMERDING, JR., PRINCETON, N. J.

Mr. WILMERDING. Yes, sir.

The CHAIRMAN. Will you state your name and address?

Mr. WILMERDING. My name is Lucius Wilmerding, Jr., and I reside at Princeton, N. J. I am a former member of the Institute for Advanced Study, and I am down here at the suggestion of Senator Smith of New Jersey.

Mr. Chairman, I should like to confine my remarks today to a comparison of the proposals for reforming the electoral system put forward by Senator Smith and Senator Mundt.

The CHAIRMAN. If any of you gentlemen want to ask Mr. Wilmerding any questions while he is testifying, you are at full liberty to break in at any time.

Mr. WILMERDING. I will do my best to answer them.

Both the proposal of Senator Smith and that of Senator Mundt appear to have the same ends in view, the establishment of a uniform mode of voting by districts for President and Vice President, and a change in the mode of determining the choice when the eventual election devolves upon Congress. But they differ in approach, and to some extent in detail, and I think I can show that one is a more complete and safer remedy than the other.

The difficulty which both of these proposals are intended to resolve is pretty clearly understood. It stems from the want of stability and the want of uniformity in the constitutional arrangements respecting the election of the Chief Executive officers of the Nation. The Constitution, by declaring that each State shall appoint its electors in such manner as the legislature thereof may prescribe, puts, as a leading Member of Congress once said, "An unequivocal negative upon the

side of fixedness and permanence, which essentially enter into the elementary notion of constitutional regulation."

If you will look back over our history, you will see that different rules have prevailed in the same State at different times, and in different States at the same time. They are all liable to be changed according to the varying views and fluctuating fortunes of political parties. You will also see that in changing from one rule to another, the inquiry in the respective States has not been which is intrinsically the best method of choosing electors, but what is the best defensive expedient to counteract the regulations of other States and secure the utmost relative weight in the Union.

Nowadays, to be sure, we have a uniform mode in practice—a general ticker system. But the uniformity is unstable. There is nothing to prevent an unscrupulous faction in control of a State legislature from changing the mode for party advantage. No doubt there would be an awful outcry if a State legislature were to take the election away from the people and make the appointment of electors themselves, as they did in New Jersey back in about 1840, I think, but it has been done in the past, and no one can challenge its constitutionality.

Furthermore, the present uniformity is the result of necessity, not choice. As State after State adopted the general ticket system, they did so with apologies and explanations. It was "the only expedient for baffling the policy of the particular States which had set the example."

The evils of the general ticket system—the impressment by the majority of the votes of the minority, the invitation to fraud, the improper power given to splinter parties in large States, the great shifts in electoral votes which may stem from small and accidental causes—all these evils have been so thoroughly canvassed in the past few years that I shall not say anything about them. All these amendments are designed to remedy them.

The two proposals to which I will limit my remarks, as I said, are those offered by Senator Smith and Senator Mundt. Both would substitute the district system for the general ticket system, or, to speak more correctly, for the lack of system prescribed by the Constitution. But they approach the matter in a different way.

Senator Smith's plan proposes that each State should be divided into as many districts of equal population as will equal the number of Representatives which the State may be entitled to in Congress; and that the qualified voters in each of these districts will choose 1 elector—or, in other words, cast 1 electoral vote. It further provides that the qualified voters in each State shall appoint 2 electors, that is to say, cast 2 electoral votes.

Senator Mundt's plan, on the other hand, would tie the mode of choosing the electors to the modes of choosing Representatives and Senators. This would come to the same thing, if the Constitution prescribed a uniform and fixed mode of choosing Representatives. It would come to almost the same thing if Congress, exercising its original and concurrent power to make and alter the State regulations respecting the election of Representatives, were to prescribe a single member district system for the choice of Representatives. But in point of fact, the Constitution gives the 48-State legislatures almost as much power to regulate the appointment of Representatives as in the appointment of electors. They cannot, to be sure, take the

election away from the people, but they can require the elections to be by general ticket, by multimember districts, by proportional representation, or by any combination of methods.

I would say, then, that Senator Smith's plan, as presently drafted, is superior to Senator Mundt's, in that it introduces into the mode of election of the President and Vice President the two elements of stability and uniformity. It excludes the disturbing influence of both the general and State governments. Senator Mundt's plan places it in the power of every State government and in the power of Congress virtually to change the Constitution of the Union.

I do not say that I oppose Senator Mundt's plan. Quite the contrary; I would support it as infinitely better than the existing plan, or lack of plan. But in the event that it should meet the favor of this committee, I would suggest that it be coupled with an amendment requiring the States to choose their Representatives in Congress by the single-member district system. Such an amendment would, in my view, be good in itself. If coupled with Senator Mundt's amendment, it would have the advantage of fixing at one and the same time the mode of choosing both the popular branches of our Government—the House of Representatives and the President.

The only objection to this course that occurs to me is one of expediency. Both proposals might be favored by a majority of the people and pass separately, but together they might be defeated by a combination of district minorities.

Failing a constitutional amendment establishing a uniform mode of choosing representatives, Senator Mundt's plan might be satisfactory if it were accompanied by a statute establishing the single-member district system for choosing representatives. Such a statute was on the books from 1842 down to 1930, or thereabouts, but none is on the books now.

For the rest of these two proposals, Senator Smith's and Senator Mundt's, are pretty much the same. Both retains the intermediate electors—although it is apparent that both could be worked without them. Senator Mundt would require a majority of the whole number of electors chosen for a definitive election, and Senator Smith would settle for 40 percent. The smaller number seems to me preferable, as tending to keep the election out of Congress, without at the same time running any risk of obtaining a President who is obnoxious to a great majority of the Nation.

Both plans would give the eventual elections to the Congress sitting in joint convention and voting by heads rather than by States. This is not a very controversial reform, and the small States could probably be persuaded to give up their very contingent advantage here in return for the breaking up of the consolidated vote of the large States.

The provisions of the two bills are slightly different in regard to the number of persons from whom Congress shall choose. Senator Mundt uses the language of the 12th amendment, the persons having the three highest numbers. There might be 10 or 20 pending. Senator Smith uses the language of the original Constitution. I think the latter is slightly preferable, as tending to keep the number of persons Congress may choose down to the lowest possible number.

The last section of Senator Smith's resolution gives Congress the power over the election of the President similar but less extensive than what it now has over the choice of Representatives. I say "less

extensive," because Congress, of course, could not alter the mode of election. It could not, for example, change from the district system to the general ticket system.

Senator Mundt's resolution has no need for such a provision, since it would automatically extend the control of Congress over the election of representatives to cover the election of electors.

And that is all I want to say.

The CHAIRMAN. You are now at Princeton University?

Mr. WILMERDING. No; I am a resident of Princeton. And I have written several articles on this subject, and Senator Smith asked me to come down.

The CHAIRMAN. We elect United States Senators, Congressmen, governors, all by direct vote of the people. I would like to have you tell me what objection you can see to electing a President and Vice President in exactly the same way.

Mr. WILMERDING. I don't have any objection to that. As between that system and the existing system, I would certainly choose the direct election of the President. The only thing that occurs to me, apart from the question of whether such a proposal could get by the Senate, the practicality of it, is whether that wouldn't require a nationwide law covering the qualifications of electors. If we left the qualifications up to the separate States, wouldn't there be an unseemly——

The CHAIRMAN. In the bill of Senator Humphrey and myself and Senator Smathers of Florida, all of whom advocate the direct election of the President and Vice President by direct vote of the people, the qualifications are left so that anybody who can vote for Senator can vote for President.

Mr. WILMERDING. In order to increase the weight of the States, wouldn't there be a tendency to, say, lower the voting age, to catch up with Georgia, which starts at 18?

The CHAIRMAN. There is a resolution in for 18-year-olds voting. We favor that. There is nothing wrong with that.

Mr. WILMERDING. Well, I wouldn't have any real objection to that. I wouldn't oppose it. I would support it, if it got by the Congress.

The CHAIRMAN. The Lodge-Gossett resolution, proposed in the Senate about 18 months or 2 years ago, only got 22 votes, and when I offered my substitute we got 32 votes. That is more than one-third of the Senate, and far more than any Senator ever got for any such proposal. So when you say the Senate might not go for this, I think you are slightly mistaken. Although Senator George Norris tried for years to get it, and I copied his bill, yet the opposition at that time, led by Senator Tydings, of Maryland, had so many amendments attached to it that when he got through I do not believe Senator Norris recognized his own bill, and would have voted against it.

Mr. WILMERDING. I was under that impression, and I asked Senator Lodge about that.

The CHAIRMAN. Yet we got 10 votes more than Senator Lodge got for his bill.

Mr. WILMERDING. I may be mistaken on that. One of the reasons I am supporting these bills is that they have a better chance of getting by the Senate, and that I think the district system would, in effect, protect the will of the people and come out just about the same as a popular election.

The CHAIRMAN. I think you would be surprised if you read the names of those who voted for it. Senator Bricker, of Ohio, is very strong for the direct election. You would be amazed at some of the Senators that supported it.

Mr. WILMERDING. The only bill I am really opposed to is the Lodge-Gossett group of bills, and I am mainly opposed to them because I am afraid that if you introduce the system of proportional representation into the counting of the electoral vote, next thing it will be introduced into the representation of the States in Congress, and I do not think proportional representation would work.

The CHAIRMAN. Were there some questions you wanted to ask, Mr. Smithey?

Mr. SMITHEY. Yes, sir.

You brought out several comparisons between Senator Mundt's proposal and Senator Smith's proposal. I notice in Senator Smith's proposal he uses the language in section 2 that, "The inhabitants of each district shall appoint." Senator Mundt says: "each State shall choose."

Now, in Senator Smith's bill, is it contemplated that they shall be elected, or that they shall be chosen by a convention?

Mr. WILMERDING. The language of section 2 is taken from an amendment that was introduced in 1826 by Mr. Duffy, chairman of the Ways and Means Committee. In those days, "appoint" meant "elect." Madison speaks of the "appointment of representatives," and he meant election. And it seems pretty clear, I think, from the context, that the only way the inhabitant qualified voters of each district could appoint a man is to elect him. They couldn't choose him by lot, I don't think.

Mr. SMITHEY. They could do so by convention, though, couldn't they?

Mr. WILMERDING. Well, I wouldn't stick on a word. If "appoint" seems to have more meaning than "elect," I would change it to "elect," or "choose." They use the word "choose" in connection with representatives.

Mr. SMITHEY. You would approve the language of Senator Mundt's proposal, "choose," then, if the committee so chose?

Mr. WILMERDING. Yes.

Mr. SMITHEY. Let me ask you this: Since both of these resolutions permit the selection of the President by electors who are elected by the people, what happens if one of those electors dies after his election?

Mr. WILMERDING. I think that is taken care of now. I would let the States worry about how to fill vacancies. Don't they do that now?

Mr. SMITHEY. But will they have that power if you pass this amendment to the Constitution?

Mr. WILMERDING. I don't see why. It doesn't take any power away from them. They have already the power to control the election of electors, don't they?

Mr. SMITHEY. As I understand one of the proposals, it takes it away from the States and reduces it to districts. Isn't that the case?

Mr. WILMERDING. Well, the State legislature would have the power to prescribe the manner of voting and all that kind of thing.

Mr. SMITHEY. Are you now saying, sir, that if one of these electors died the State legislature could provide that the Governor could ap-

point one in his stead to serve? Wouldn't that defeat the purpose of your proposal?

Mr. WILMERDING. I see what you mean. Well, couldn't the State legislature regulate that by statute?

Mr. SMITHEY. I simply wanted to get your ideas on it.

One of the things which points that up, I think, is a situation which happened in 1948. It wasn't too widely reported. The chairman, in an article which he submitted to the National Debate Manual, called attention to it, in Lansing, Mich., in the 1948 election. I think there were 18 electors at that time, and on the day that they were supposed to assemble in Lansing, Mich., the State capital of Michigan, only 12 were present. Now, the State legislature permitted the appointment of substitute electors. There happened to be 6 people who were in the State capital that day, and they chose 6 in that manner to substitute. One of those six indicated that he thought he ought to be allowed to vote for the winner, who was President Truman at that time, although the State vote, the popular vote, was for Mr. Dewey. And they had some difficulty in persuading him that his duty was to vote for Mr. Dewey.

Mr. WILMERDING. Now, on the constitutional question, the district system was practiced in a great many States in the early years of our country, and I presume that they had some arrangement for taking care of the eventuality when an elector died. Now, it might be well worth looking up to see what they did and whether it was satisfactory. If no satisfactory scheme could be found for dealing with a case like that, then I think I would just be in favor of abolishing electors and saying that the person receiving the greatest number of votes for President in each district should be considered to have received one electoral vote. An electoral vote can't die. It can be cast by the people and recorded. So I would give up the electors if there wasn't any real answer to the question that you posed to me.

Mr. SMITHEY. I have no further questions, Mr. Chairman.

The CHAIRMAN. Mr. Nordskog, will you state your name and address?

STATEMENT OF ANDRAE NORDSKOG, LOS ANGELES, CALIF. (ACCOMPANIED BY MRS. GERTRUDE NORDSKOG)

Mr. NORDSKOG. Thank you, Mr. Chairman. I want to thank you indeed for asking me to come from Los Angeles out here for this very worthy cause. But since we first met, 12 years ago, you have kept faith with me and with the people, and it has done my heart good to feel that you have stuck at it.

Before we begin: There was a meeting at the Hollywood Woman's Club a short while ago, and, after my talk, we got the most wonderful response in favor of your own bill.

May I introduce Mrs. Nordskog?

Mrs. NORDSKOG. Mr. Chairman, in accompanying my husband, Andrae Nordskog, to Providence, R. I., last summer, where he made the keynote speech on the subject of the Abolition of the Electoral College, and the Direct Election of President and Vice President at the convention of the National Association of Secretaries of State, we had the opportunity of talking with scores of people about their views on this subject.

On our national tour by automobile we drove 8,500 miles from Los Angeles to Boston and return; and we talked with gasoline service station men, owners of restaurants and waiters, and with guests in hotels in many cities, and many others. We were also presented on the public platform, radio, and television, and in every contact we found the people quite unanimously in favor of the abolition of the electoral college system, and in favor of presidential primaries in each State and for the direct election of President and Vice President.

Recently Mr. Nordskog spoke on this subject before the Hollywood Woman's Club, in Hollywood, Calif., and, at the close of his talk, several hundred women hastened to sign petitions urging the adoption of a constitutional amendment to bring about the needed change in our election system.

Mrs. Hazel Snyder, president of the Hollywood Woman's Club, advised me just before our flight to Washington that she endeavored to have an official resolution adopted by their board of directors at last Tuesday's meeting endorsing Senate Joint Resolution 84, but that being vacation time, due to the lack of a quorum, this was impossible; but she wanted me to assure your committee that when this measure comes before the people for ratification, hundreds of members of that club will give it their hearty support.

I wish to thank Chairman Langer for inviting me to thus add my support to Senate Joint Resolution 84, which I trust will be approved by Congress at an early date.

I know that the women are a hundred percent behind this.

I desire to submit this clipping from the Los Angeles Times.

Mr. NORDSKOG. She would like to have that in the record, if you don't mind, Mr. Chairman.

The CHAIRMAN. Yes, indeed.

Mr. NORDSKOG. That refers to that meeting.

(The material referred to is as follows:)

[Introduced by Gertrude (Mrs. Andrae) Nordskog]

CLUB WOULD BAN ELECTORAL COLLEGE PLAN

Three hundred members of the Woman's Club of Hollywood yesterday signed a petition seeking to do away with the electoral-college method of choosing the President and Vice President. They urged that the election be decided by the popular vote.

Their action followed a talk by Andrae Nordskog, an elections authority, who discussed United States Senate Resolution 33.

This proposes abolishment of the present system of election and would substitute direct presidential primaries. A constitutional amendment would be necessary to effect this change.

The CHAIRMAN. Thank you again, Mrs. Nordskog.

Mr. NORDSKOG. As you know, Mr. Chairman, the activities of the speaker date back to about 1929, when I first organized a group and we made talks across the country favoring this change.

Last year, on June 24, 1952, the National Association of Secretaries of State, meeting in Providence, R. I., asked me to be the keynote speaker on this very subject at that meeting. And Mr. Bolin, Wesley Bolin, the president of the National Association of Secretaries of State, and secretary of the State of Arizona, on October 5, 1952, drove from Phoenix down to Tucson, about 135 miles, about 270 miles round-trip, just in order to introduce me to a thousand people in Tucson. And I thought his introduction sort of covered my background, and it

would be well if you would introduce that in the record. I don't need to read it. I don't want to impose on your time.

The CHAIRMAN. We will place that in the record.

(The material referred to is as follows:)

The Sunday Evening Forum, of Tucson, Ariz. (Mrs. Mary I. Jeffries, director), presented Mr. Andrae Nordskog on the subject of the Direct Election of President, at the Tuscon High School Auditorium Sunday evening, October 5, 1952.

The Honorable Wesley Bolin, president of the National Association of Secretaries of State, and Secretary of the State of Arizona, introduced Mr. Nordskog as follows:

"Madam Chairman, distinguished guests, and friends: It is indeed a rare occasion when a group is privileged to hear from an authority in any field. While there are numerous experts, self-styled and otherwise, in each field of endeavor, there are few true authorities.

"We are most fortunate this evening in having with us a true authority. His background speaks for itself. In 1928 he organized the Presidential Direct Election League with the purpose of substituting for our present outmoded electoral-college system, a nationwide presidential primary. His efforts and the efforts of the league were not in vain, for in 1934 an act to abolish the electoral college came within two votes of receiving the approval of the United States Senate. That the fight is not yet deemed lost is proved by the fact that he spoke on the electoral-college system before the National Association of Secretaries of State at our convention held in June of this year at Providence, R. I.

"Being well versed in the electoral-college system requires more, however, than a knowledge of that single phase of our governmental operations. Here again our distinguished speaker for the evening is well founded. He has spent 25 years in research with the highest election officials of not only the cities, counties, and States of our Nation, but with Federal authorities. He is an instructor of constitutional law, and in recognition of his outstanding ability, was, in 1947, 1948, and 1949, a member of the constitutional revision committee charged with the drafting of a new constitution for the State of California.

"There is no doubt that during the next few minutes we will gain greatly in knowledge by listening to one of the best, if not the best, informed authority in the United States on the electoral-college system of presidential elections.

"It gives me great pleasure to introduce to you Mr. Andrae Nordskog, of Los Angeles, Calif. Mr. Nordskog.

Mr. NORDSKOG. At the time of the adoption of our Constitution, September 17, 1787, there were but few qualified voters. Thousands of recent arrivals from Europe were in economic bondage for 7 years to repay moneys advanced for their boat fare and were not permitted to attain citizenship until the debts were paid. In some Colonies landownership was requisite for the voting privilege. The women could not vote, nor could the Negroes.

Those with aristocratic leanings, such as Alexander Hamilton, believed, and frankly stated, that the uneducated masses were not fit to choose the public officials. Much debating took place in the Constitutional Convention over the manner in which members of the Senate and House were to be chosen. They finally settled with the members of the House of Representatives being elected by the popular vote of the citizens eligible to vote, but to remain in office only 2 years. The Senators were chosen by each State, chosen by the legislature thereof, for 6 years.

Article 2 of the Constitution originally provided that the President and Vice President were to be elected by members of the electoral college. It stated that—

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

It is well to notice that it provides that each State shall "appoint," not "elect," the presidential electors, a constitutional requirement which most States have violated for much over a century.

> The Electors shall meet in their respective states, and vote by ballot for two persons. * * *" The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed—

Said the provisions of article 2. Continuing, it says:

> In every case, after the choice of President, the person having the greatest number of votes of the electors shall be Vice President.

Notice that a majority of votes was not required for the Vice President.

The 12th amendment to the Constitution, which was adopted September 25, 1804, made a few changes in the electoral-college system, the principal one being that the presidential electors—

> shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President.

The original article 2 provided that the electors shall "vote by ballot for two persons," without designating which one they desired for President or for Vice President.

Having done considerable research work in an effort to find if the several States had obeyed the mandate of the Constitution, I discovered that there had been quite a rapid transition from the plain provisions of article 2 which were not changed by the 12th amendment, and which said that "each State shall appoint" such Presidential electors. In the beginning and for some years following the States did, by the action of their legislatures, actually appoint the Presidential electors. Following the 1820 period they rapidly deserted the Constitution, until finally, at the present time, such electors are chosen by some elective method and are appointed or nominated by private political parties. I say "private" because our system of partisan politics is not an arm of the law of the State or of the United States. The California State Supreme Court in 1924, in a Presidential election case, stated that the Presidential primary was only a consolidation of several private political caucuses which had been permitted to use the public ballot.

I am not here arguing in favor of the appointing of such presidential electors, I am only showing that the provisions of the Constitution have not been obeyed for more than a century; and that, if we are to be a Government by law, and not by men, then it is necessary to change the Constitution so as to adjust it to needs of the present time.

The voting ban against race and color was lifted in 1870 by the adoption of the 15th amendment to the Constitution which then permitted a large number of hitherto ineligible persons, male persons, to vote. Women of all races, however, did not fare so well, and had to wait another 50 years, until 1920, before they were granted the right to vote through the adoption of the 19th amendment to the Constitution.

Even the intelligent men of this great Nation were not to be trusted to select their United States Senators for more than 125 years following the adoption of our Constitution; the legislatures were trusted to do that chore. It was not until 1913 that the selection of Senators

was permitted by popular vote upon the adoption of the 17th amendment. Indeed our intellectual progress has been slow.

And parenthetically, I will say that if I were to speak to the Senators in Washington, all of them, I would say that since they had to wait so long for the privilege of being elected by the people, they ought to look upon the presidential and vice presidential positions in the same manner now and give the people the privilege of electing them directly.

In 16 States preferential primary elections are held at the present time at which candidates for President are supposed to be nominated. I use the word "supposed" because in California it is a slate of delegates that is to be chosen, and not a candidate for President. When these delegates are notified by the secretary of State that they have been duly elected, they then are permitted to go to the convention of their particular political party and cast their ballots for the candidate they prefer as President.

In California up to a few years ago the primary preferential ballot contained a column in which it said:

"Candidates preferring Tom Jones," underneath which were printed the names of 48 candidates for delegates to the national convention of one political party, and 44 names on another of the major parties. Contrary to public belief these delegates, under the law are not pledged to vote for the presidential candidate of their preference, they simply say that they "prefer" such candidate.

More recently in California the elections code has been changed so that at present the names of the candidates for delegates to the national convention do not appear on the primary ballot. Instead, a slip of paper is mailed to each voter together with a sample consolidated primary election ballot on which is printed: Consolidated Primary Election, with the date of the election given and the name of one political party under which is printed: The following delegates are pledged to Bill Smith; underneath which is printed the list of the candidates for delegates some 70 in number. The printed statement that the candidates for delegates are "pledged" to Bill Smith is not true; as I stated before, they only express a preference, and there is no provision for taking the pledge of the candidate for delegate when he fills out the form which he must file with the secretary of State in order to qualify as such candidate. He or she simply says that a certain candidate for President is "preferred," and that to the best of his judgment and ability will support such a presidential candidate at the convention.

Stating that he will, to the best of his judgment and ability, support such a candidate at the convention is not worth the paper it is written on. Time after time our California delegations have been turned over to another candidate at the conventions on the very first ballot, with no regard for the preelection promises that these delegated would support the one to whom they supposedly were "pledged" to cast their votes at the convention. This has resulted in an absolute betrayal of public trust; yes, public trust, because they are usurping the power of the people and the State by using the public ballot in order to attain their status as delegates to conventions of privately controlled political parties which are far beyond the reach of public policing. These private political parties make their own rules and

regulations, appoint their own constabulary free from public, legal interference.

Under present California law, the basic privilege of writing in the name of a person desired for President is forbidden. In the first place because the preferential primary election is not being held for the purpose of nominating a candidate for President, but only for the purpose of electing delegates to the convention. It the second place, because the ballot is not designed to permit the voter to write in the names of some 70 candidates for delegates to the convention. Despite Supreme Court decisions upholding the basic right of the voter to express himself at the polls by writing in the name of any citizen whom he desires to elect to office, the present California law nullifies this basic right and thus denies the voter of this sacred privilege.

Under present California law the ballot contains the heading of: Official Consolidated Primary Election Ballot. Underneath which is the party name. Then follow the words: "For Delegates to National Convention." Underneath which is a square within which is printed: "Candidates Preferring Bill Smith," underneath which is a square within that square, and underneath which is printed: "A cross stamped in this square shall be counted as a vote for all candidates preferring Bill Smith." At no place is the word "President" printed.

It must be apparent to any voter that if the name of a candidate for public office is not printed on the ballot, it cannot be assumed that he was ever duly elected. In the second place if the name "President" is not printed on the ballot, the voter has no valid reason for assuming that a candidate for President is being nominated or elected. In spite of the fact that the name of the candidate for delegate to the convenion is not printed on the ballot nor even legally publicized to the public, the Secretary of State is required under the elections code to give a certificate of election to each delegate although his name was not on the ballot.

In section 2155 of the California Elections Code the candidate for convention delegate is required to sign a statement to which he swears or affirms that he is a delegate "to represent the State of California in the party's next national convention." He does not represent the State of California. He represents only his particular political party. He is not under the control or jurisdiction of the State nor answerable to it for any of his acts or misdeeds. He is subject to and answerable to only the party to which he belongs. He may vote for any presidential candidate at the convention without restraint from the State. He may also vote for any candidate for Vice President at the convention, although he was not elected as a delegate to perform that service for the State or his party.

There is nothing in the California Elections Code which in any manner authorizes the convention delegate to vote for any one for the nomination as Vice President. He is assuming an obligation not given to him by law either of the State or of the United States.

On the 1944 ballot in California there were 48 names of candidates for convention delegates of one major party and 44 of another. Due to increased population the present numbers run around 70 for each major party, although the names are omitted from the ballot and printed on separate slips of paper. I mention this now for reference a little later on.

Electoral college: The national Constitution provides that:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which each State may be entitled in the Congress.

It does not say "elect," it says "appoint."

As I stated previously, all of the States at present resort to some sort of elective machinery in the selection of the electors for President. In California the candidates for electors are nominated at the political party conventions. Up to a few years ago the names of the candidates for electors were printed on the November ballot. Under the caption of "For Electors of President and Vice President of the United States," the names of the candidates for electors were printed.

Beginning in 1940, under the revised California Elections Code, under the caption of "Presidential Electors," the names, not of the candidates for electors, but the names of the candidates of each political party for President and Vice President were printed. In the instructions to voters it says on that ballot that if you put a cross in the square opposite the name of the party and its presidential and vice presidential candidate, it is a vote for all of the electors of that party. There is no provision in the law calling for the legal publication of the names of candidates for electors. Therefore the voting public has no knowledge of whom it is voting for. In Iowa, where I was born, they used to call that sort of thing as "Buying a pig in the poke"; in other words, buying it without seeing it.

To place the names of the presidential and vice presidential candidates under the caption of "Presidential Electors" is the same as if you print the name of a candidate for governor under the caption of "State Senator."

The basic right of the voter to write in the name of a person desired for President or Vice President is denied under California law. In the first place, just how could you logically write in the name of your choice for President under the caption of "Presidential Electors"? In the second place, the new code requires a written candidate for President to file with the secretary of state 40 days prior to the November election the names of presidential electors who have given their pledge to vote for said candidate.

As in the case of those candidates for electors who are pledged to vote for presidential and vice presidential candidates whose names are printed on the ballot, the names of the elector-candidates pledged to a writein presidential candidate likewise not only are omitted from the ballot, but the voting public has no way of knowing who they are, because the law does not provide for the publication of such names.

In other words, when the big hand points to half past 2 the clock strikes 6; then I know it's a quarter after 4.

Indeed, we might ask, Just how far have we drifted from the terms of the national Constitution in electing our President and Vice President?

On May 29, 1928, the speaker organized the Presidential Direct-Election League. We arranged for long automobile parades at night, with hundreds of red flares lighting the darkened sky, led by brass bands playing stirring patriotic music as we toured the streets on the way to the auditoriums where our public meetings were held. Capable speakers told of the great need for a change in our election system and the need for abolishing the antiquated electoral college.

After I gave 15 public talks in the State of Nebraska alone, the late Senator Norris of that State filed a joint resolution in the United States Senate in support of such proposal in December 1932. In May 1934 his bill reached the floor of the Senate, and with but little debate, practically nothing having been said against it, 52 Senators voted yes, and only 29 voted no. However, due to the requirement of a two-thirds vote of the Senate, it failed by only two votes of being approved. Since that time several similar resolutions have been filed in the Senate and in the House of Representatives, but, due to the fact there has been no organized effort to back them up with public support, they have not been acted upon.

In speaking of the two-thirds, parenthetically, in our newest State of Arizona, the Constitution provides that in all matters pertaining to election a plurality of the votes shall carry.

In California, the Constitution calls for a simple majority as to constitutional amendments.

It requires a two-thirds vote by Congress; that is, of both Houses, to propose an amendment to the Constitution, and it requires ratification by three-fourths of the States; or on application of the legislatures of two-thirds of the several States, Congress shall call a convention for proposing an amendment, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures in three-fourths of the several States, or by conventions in three-fourths thereof.

Parenthetically, I will say, Mr. Chairman, that I notice that you have provided for conventions in the several States, and I believe that if you will convey my sentiments, which I regard as being founded on true facts, because I believe I am the only individual in America that has tromped the States clear across the country, and I have the reaction from the public—if you take this to the public, you are going to win much quicker than if you left it to the legislatures.

The national business of collecting taxes is uniform in all of the States. Likewise, the business of electing our President and Vice President should be standardized in all of the States.

For the past 25 years the speaker has spent much time in company with the ablest election officials in the United States in an endeavor to work out a system of electing our President and Vice President which will be adequate, and which will remove such system from the clutches of selfish and unscrupulous political despots who have ruled the roost all too long, and thus give to the American people that freedom of political action to which they are justly entitled. Fourth-ward methods so successfully used in Chicago for a half century by political bosses have been adopted in State and national conventions to such a degree that the nomination of the two highest officers in the land has come about through bargaining and bartering of votes to the highest bidder in exchange for seats in the President's Cabinet, or positions in the Supreme Court, together with assurance of special privileges which are denied to the citizens at home who sit and wonder what it is all about.

I have here a photostatic copy of pages from a book written by the manager of a presidential candidate who says that while he was on the convention floor of a recent political convention, he was offered $19,000 in cash if he would release delegates from one State whom he controlled, the same as had already been paid to another candidate for

releasing his delegates. Upon refusing the offer of $10,000 this book author said he was later offered a whole roomful of money if he would release his delegation, but that he refused to accept it.

Following that convention I boarded a train from Chicago to San Francisco. I met a woman from Boise, Idaho, on that train, who said she was an alternate delegate at that certain convention, and that the convention was bought with envelopes filled with money; that she was there and actually witnessed the transactions.

And so I went to the library. I used to own one of these books, but I misplaced it. This is "One Man—Wendell Willkie," by C. Nelson Sparks, former mayor of Akron, Ohio, who was the campaign manager of Frank E. Gannett, the publisher. I went to the Los Angeles Library and had this photostated for your committee, Mr. Chairman. I am not going to read the two pages in.. I will just put that in the record together with this.

(The material referred to is as follows:)

ONE MAN—WENDELL WILLKIE

(By C. Nelson Sparks, former mayor of Akron, Ohio)

* * * * * * *

Checkup reveals that South Carolina sent two opposing delegates to the convention, and into the hands of the credentials committee fell the job of saying who should sit and who should not. The day prior to the hearing of this contest before the credentials committee which had full power to act, a delegate of one of the opposing factions, claiming to speak for his delegation, came to me and asked that I use all possible influence to help his delegation to be seated. He said his delegation was pledged to cast its first vote for Tom Dewey, but if seated they would cast their second ballot for my candidate, Mr. Gannett.

My organization did what it could to help the delegation and the committee's decision was favorable.

Half an hour later, the leader of the successful delegation walked in on me in the Franklin Hotel.

"Now let's talk turkey," he said, in substance. "I've been offered $10,000 for expenses, and so forth, for the delegation's vote on the second ballot and from there on until released, and I am offering your candidate our votes under the same conditions and for the same money, half to be paid down today and the balance after the second ballot is cast."

This conversation was carried on in the presence of one of my chief assistants.

Shocked, and sparring for time, I said that I would "give the idea consideration," but the offer was not open for consideration. It had to be accepted immediately or not at all.

On the opening day of the convention, June 26, I walked back to where the alternates were seated, and there, as an alternate in this same delegation, sat a president of one of the Commonwealth & Southern Corp.'s largest subsidiaries. I knew him well, and we talked for a few minutes. I asked him how he had gotten past the convention police to a seat reserved for alternates, and he answered my question by producing an alternate badge and a ticket of the same delegation whose representative had demanded of me $10,000 for his delegation's vote.

Then there was the case of the Arizona delegation. This group was pledged to Gannett, and cast its first ballot for him. A few minutes afterward, I was called off the convention floor to a telephone. On the other end of the wire was a prominent attorney from a Midwestern State whom I knew personally.

This man, in an excited voice, said: "Nelson, I am talking from Willkie's headquarters in the Walton Hotel, and have just been advised that you have the Arizona delegation sewed up for your candidate. Your candidate hasn't a chance to be nominated, and I'm asking you to name your price for releasing the Arizona delegation to Willkie on the second ballot."

I replied that I couldn't hear him very well, and I suggested that we talk later when I returned to the Franklin Hotel during the recess hour.

On my return to the hotel after the second ballot had been cast, I put a Washington newspaperman on one phone extension and a former newspaperman from

Minnesota on another and then called Willkie headquarters and asked for the attorney who had previously called me.

After apologizing for having had to cut him short at the convention hall, I asked him to repeat his proposal. He again said that my candidate did not have a chance to be nominated, and that it would be worth a lot of money to Mr. Willkie to have the Arizona delegation break for him on the next ballot because of its high position on the rollcall.

I replied: "What do you mean by a lot of money?"

He said: "You name your own price, because we have a roomful of money."

I told him that there wasn't enough for me to sell out my candidate, and I wasn't at all complimented with the offer, * * *

Mr. NORDSKOG. Today, in the Times-Herald in Washington, August 1, 1953, when they were speaking about our late friend, Bob Taft:

Taft made three unsuccessful efforts to win the Republican presidential nomination. The initial try was in 1940, when he had been in the Senate less than 2 years, and at Philadelphia he saw the eastern bankers palm off Wendell Willkie on the convention.

I think that goes mighty well today, just this very day, in confirmation of what Mr. Sparks said, that the convention was bought with money.

I talked with Mayor Sparks in New York City about this very thing, and he confirmed to me that his statements were true, and Mr. Raynor, I think the publisher of his book in New York City, in the prefatory remark in that book, stated he had investigated all of the claims made by Mayor Sparks and he had found them to be absolutely true.

The CHAIRMAN. I might say we had a hearing on that matter, and Mr. Sparks testified.

Mr. NORDSKOG. Did you? That is interesting.

Oh, I remember now. Because someone referred to that. I am glad you told me about it.

The CHAIRMAN. Very, very interesting. They wanted the State of Arizona to yield, because they were near the top of the alphabet. I believe it was said $75,000 was offered for that privilege.

Mr. NORDSKOG. That was it, you see. "Alabama goes for Willkie." They wanted the "A's" up there. It would be more effective psychologically than "Washington," down at the bottom. But they didn't get their wishes with Mr. Sparks, and I honor him.

Did you want to include that?

The CHAIRMAN. Oh, yes.

Mr. NORDSKOG. I just gave the frontispiece and the part pertaining to the $10,000. I didn't want the whole book in, because it is too long.

National political conventions are private affairs. They are not supervised or policed by any arm of the law or State or Nation. It is well known that small cliques govern these conventions. The delegates have no way of knowing what is going on behind the scenes. They adopt their own rules, yes, and change them overnight, as they did in Chicago last year, State supreme court decisions to the contrary notwithstanding. If our Republic is to live, it must be given a breath of political freedom, freedom of choice in selecting the highest officers in the land. We must have government by law, and not by men who work behind the scenes.

In the Ventura case in California, in 1930, they adopted a new city charter, and the Ventura Daily Free Press brought out the fact that the law provided that they must advertise a little one-inch ad in the newspaper for 40 consecutive days before the election to notify the public that they can go and get a copy of that charter at the city hall.

And although the newspaper itself carried a 7-column headline and everybody read it and 1,500 people went and got it and they all generally know it, they carried it into the supreme court, and the supreme court said:

> You cannot fritter away the terms of the Constitution by ingenious speculation, for so to do, soon you would have no Constitution.

I refer to that because the supreme court caused the city of Ventura to revert back to the status of an Indian village, so to speak, for 2 years before they had another election in 1932 and got it confirmed by the legislature.

Oh, well, it was said, it was ratified by the State legislature. The legislature has to ratify charters. And the supreme court said that the thing was illegally passed in the first place, and therefore the purported ratification by the legislature amounted to nothing. And so they canceled out that city charter. They had already elected a mayor and a city council and a new chief of police. And the whole thing was thrown out by the State Supreme Court of California.

I feel that your bill, Mr. Chairman, No. 84, is well drawn. I have read it over. And I am not going to read this into the record, because it will clutter up the record, but I just want to reveal——

The CHAIRMAN. Now, there is no objection to putting it into the record. We have all kinds of time.

Mr. NORDSKOG. Well, at least I will read just the titles.

In the 70th Congress, 1st session, House Joint Resolution No. 3, by Mr. Celler. I have read that. And in the 78th Congress, 2d session, Senate Joint Resolution 107, by Senator Langer. I have read that. I have got the old original Norris resolution here. As you see, I have got photostats of some of these, because I was unable to get the original copies, and so I had photostats. This is Senate Joint Resolution 79, 73d Congress, 1st session.

Parenthetically, while I am thinking of it, Mr. Lawrence, the editor of the Lincoln Star, has been authorized as a trustee in charge of the late Senator Norris' records to publish all of his records, and Mr. Lawrence personally told me last July, coming from the Chicago convention: "I have attended conventions for 40 years." As had I. And he said, "Mr. Nordskog, these are the last two political conventions I will ever attend. They were so rotten and so putrid," he said, "I will never again attend." That was Mr. Lawrence, the editor of the Lincoln Star, whom I consider one of the finest gentlemen, an intellectual editor. And he, today, has all of the Norris books, Norris letters, and everything, that he is going to compile in book form.

Then there is Senate Joint Resolution 19, 74th Congress, 1st session, by Mr. Steiwer, and this one of the 75th Congress, 1st session, Senate Joint Resolution 7, by Mr. Steiwer. Seventy-fifth Congress, 1st session, House Resolution 223, by Mr. Lea of California. Seventy-sixth Congress, 1st session, House Joint Resolution 579, by Mr. Lea. And I have several others at home in my files.

So I must submit that to you honorable gentlemen to show you that the speaker has studied these things for many years and has been very sincere in his motive of trying to find a solution.

These things I am not going to introduce in the record, but I thought it was such an interesting history that the Acting Governor of Connecticut—what is her name?

Mrs. NORDSKOG. Mrs. Leopold.

Mr. NORDSKOG. Mrs. Alice K. Leopold is secretary of state, and we read in the press yesterday, the New York Times, that she is now Acting Governor of Connecticut. And she is very friendly to this cause. We had a letter from her. She was over to the convention last year. And she sent me, here, the names of the States that ratified the 12th amendment in 1801, September 25, 1804. And then she enclosed a copy of the resolution adopted by the State of Connecticut Legislature, at a time when they didn't have any typewriters, the ayes appearing to be 177, and the nays 15. They actually voted against it. I just thought it would be fun for you to see this old original. That is the handwriting of the people of the legislature over there and their names.

I have a copy of a letter that I just received from Reno, Nev., where Mrs. Nordskog and I appeared last summer on our return from Providence, R. I., before the Kiwanis Club in Reno. By the way, Mr. Chairman, we have, I think, a sort of an interesting program. If they don't like a political talk, they might like singing, and Mrs. Nordskog is a concert singer. And so wherever I can, I have her sing sweetly to them, so that I can just bowl them over with my talk.

But it seems to be very effective, and they seem to appreciate Mrs. Nordskog's work. I want to tell you, and she will tell you too, that the women of this country are going to help you put this over. And were it not for the fact that I agreed that I would take Mrs. Nordskog on these trips and have her express herself in song, I wouldn't be here before this committee today. So I want to give the women credit for what they are doing in this. I think it is wonderful that they take such a vital interest.

This is a letter of November 20, 1952, and it is from the law offices of Charles L. Richards in the Waldorf Building, Reno, Nev. Mr. Richards is a very successful attorney. He is a very fine gentleman, one of the real civic leaders of Reno. So I appreciate his cooperation. And this letter is personal, but I will read the part that pertains to this work.

MY DEAR ANDRAE: I am happy in the thought that this wonderful opportunity that you have prayed for over the years is now yours. If the Divine Father of us all has a plan for you that will work to ultimate success, nothing can prevent it. So far it looks like it is working that way, because of your present position in the picture at the hearing of the resolution. Enclosed herewith is a silent prayer that such a program is to be yours and in keeping with your desires. The good wife and I want to be jointly remembered to your good wife and our best wishes to you both. Our club joins with you in this sentiment—

that is, the Kiwanis Club.

most of whom have excellent remembrances of your presentation of this matter when you presented it under my chairmanship. Always, your friend,

CHARLIE.

That is Charlie Richards. And then he enclosed, Mr. Chairman, a letter addressed to the Honorable William Langer, chairman of the Standing Subcommittee on Constitutional Amendments, Judiciary Committee, United States Senate:

DEAR SENATOR LANGER: At the regular weekly meeting of the Reno Kiwanis Club held this date during the noon hour, the following resolution was unanimously passed:

"Be it resolved, That the Reno Kiwanis Club of the city of Reno, State of Nevada, have this day unanimously voiced their attitude in favor of Senate Joint Resolution 84, which provides for the abolition of the electoral college

system and for the presidential primary in each State and for the election of the President and Vice President by popular vote of the people; and

"Be it further resolved, That a copy of this resolution be forwarded to Senator Langer with the request that he present it to the committee of which he is chairman, that it act favorably upon Senate Joint Resolution 84 now being considered by said committee."

Respectfully submitted.

GERALD BARNETT,
President of Reno Kiwanis Club, Reno, Nev.

Attest: A true copy, secretary J. B. Cunningham.

Then I have a letter here from a very influential member of the city council in Los Angeles that assisted me in my attempts in 1934 in the State legislature. He is now one of the prominent councilmen of the city of Los Angeles. It is on the stationery of the city council, city of Los Angeles, city hall, March 28, 1952.

DEAR MR. NORDSKOG: Pursuant to the effort you put forth at the special session of the California Legislature in January 1944, when, I as an assemblyman from Los Angeles, introduced A. B. No. 4 for you, wherein you sought to correct certain sections of our elections code relating to the presidential preferential primary and the general election at which both President and Vice President are to be elected, I am glad to know that you are again active on behalf of the electors to make their ballots effective, by now proposing an amendment to the National Constitution, which will provide for the direct nomination and election of those two highest offices in the land.

It is gratifying to know that the National Association of Secretaries of State are planning action on this matter at their annual convention in Rhode Island in June of this year, and that they have asked your cooperation.

Knowing as we do that whatever action is taken by Congress on this proposed change, any constitutional amendment will have to be ratified by three-fourths of the States, it will be necessary to have a nationwide campaign of education among the voters to prepare them for such ratification, and that you, from your long study of these matters, should spearhead such a campaign for the good of our Nation.

With best wishes for your success, I am,

Sincerely yours,

DON A. ALLEN,
Councilman, Seventh District.

Then the secretary of state of Georgia, Ben W. Fortson, who was elected secretary of the National Association of Secretaries of State last year, under date of October 14, 1952, on the stationery of the department of state in Atlanta, Ga., says in part, the first part of it being rather personal:

DEAR MR. NORDSKOG: * * * I think you are doing a very fine job in spreading the news about the abolition of the electoral college system. What the people of this country will do about it I don't know. I do think, however, a great many are interested in some change.

With best wishes for your continued success and prosperity, I am

Very sincerely yours,

BEN W. FORTSON,
Secretary of State.

And they also, after the convention, sent a 14-inch scroll with the great gold seal of Georgia, in which they expressed their gratitude to Mrs. Nordskog for her musical contribution to their convention, and for the keynote speech that I made for that convention.

Then I have here a letter dated July 24, 1953, on the stationery of the Payroll Guarantee Association, 1204 South Hill Street, Los Angeles 15, Calif., addressed to you. I had them send this to me, because I knew if I would ask them to take some action on this, they would be favorable toward us. I have spoken before their groups many times on this.

Hon. WILLIAM LANGER,
Chairman of the Standing Subcommittee on
Constitutional Amendments, United States Senate,

HONORABLE CHAIRMAN: Our organization, Payroll Guarantee Association, has for many years been actively engaged in supporting progressive legislation and hereby promises its support to Senate Joint Resolution No. 84, which you have introduced for consideration and adoption by the present Congress.

Being advised that Mr. Andrae Nordskog, a citizen of our own city, has been invited to testify on the merits of your bill during the week of July 27, 1953, we hereby authorize Mr. Nordskog to speak for our members, who in previous elections in California have cast as high as 1,147,000 votes at a single election.

We also give our assurance that when your proposal for the abolition of the electoral college and for the direct election of President and Vice President comes before the people for final ratification as an amendment to the United States Constitution, we will give it our active support.

With best wishes for the success of your bill, we are

Sincerely yours,

PAYROLL GUARANTEE ASSOCIATION,
By WILLIS ALLEN, *President.*
By ROY G. OWENS, *Secretary.*

The Legal Journal in Los Angeles is a full-sized newspaper and is not given to publishing much news. It is a sort of a legal briefing paper. It is a legal journal. It carries all the legal advertising for the city and the county. It is the official newspaper for the city of Los Angeles and for the county of Los Angeles. And on July 1, 1952, after I went back there, I asked the editor if he had got any report on this thing, and he said, "Yes, I published your speech in full." I didn't say much. I thought, "Oh, yes?" It was perhaps more than they would want to print in a paper of that kind. But he invited me to come down and get a copy. And lo and behold, he had printed the entire speech I gave in Providence, R. I., embracing 120 column-inches of space in that very expensive paper. So it shows the attitude of the press.

By the way, I think Peter Edson, the columnist who writes a syndicated column for, oh, several hundred papers, about 6 or 8 months ago polled those papers on this very subject. And he said that 75 percent of the editors of the United States in charge of the papers for which he writes were in favor of the change which you, Mr. Chairman, are proposing. It is very encouraging to know that not only the public but the writers are in favor of it.

I have some clippings here that just reflect the attitude of the papers. This one reads, as you can see:

"Nordskog leading fight for direct vote on President." Rather than read the thing now, I would prefer to just submit this to you and have you put it in the record, if you care to do that.

The CHAIRMAN. Thank you.

(The material referred to is as follows:)

PAYROLL GUARANTEE ASSOCIATION,
Los Angeles 15, Calif., July 24, 1953.

Hon. WILLIAM LANGER,
Chairman of the Standing Subcommittee on Constitutional Amendments,
United States Senate

HONORABLE CHAIRMAN: Our organization, Payroll Guarantee Association, has for many years been actively engaged in supporting progressive legislation and hereby promises its support to Senate Joint Resolution No. 84 which you have introduced for consideration and adoption by the present Congress.

Being advised that Mr. Andrae Nordskog, a citizen of our own city, has been invited to testify on the merits of your bill during the week of July 27, 1953,

we hereby authorize Mr. Nordskog to speak for our members, who in previous elections in California, have cast as high as 1,147,000 votes at a single election.

We also give our assurance that when your proposal for the abolition of the electoral college, and for the direct election of President and Vice President comes before the people for final ratification as an amendment to the United States Constitution, we will give it our active support.

With best wishes for the success of your bill, we are

Sincerely yours,

[SEAL]

PAYROLL GUARANTEE ASSOCIATION,
By WILLIS ALLEN, *President.*
By ROY C. OWENS, *Secretary.*

CITY COUNCIL OF THE CITY OF LOS ANGELES,
City Hall, March 28, 1952.

Mr. ANDRAE NORDSKOG,
Los Angeles 53, Calif.

DEAR MR. NORDSKOG: Pursuant to the effort you put forth at the special session of the California Legislature in January 1944, when I, as an assemblyman from Los Angeles, introduced A. B. No. 4 for you, wherein you sought to correct certain sections of our elections code relating to the presidential preferential primary and the general election at which both President and Vice President are to be elected, I am glad to know that you are again active on behalf of the electors to make their ballots effective, by now proposing an amendment to the national Constitution which will provide for the direct nomination and election of those two highest offices in the land.

It is gratifying to know that the National Association of Secretaries of State are planning action on this matter at their annual convention in Rhode Island in June of this year, and that they have asked your cooperation.

Knowing as we do that whatever action is taken by Congress on this proposed change, any constitutional amendment will have to be ratified by three-fourths of the States, it will be necessary to have a nationwide campaign of education among the voters to prepare them for such ratification, and that you, from your long study of these matters, should spearhead such a campaign for the good of our Nation.

With best wishes for your success, I am,

Sincerely yours,

DON A. ALLEN,
Councilman, Seventh District.

RENO, NEV., *July 29, 1953.*

Hon. WILLIAM LANGER,
Chairman of the Standing Subcommittee on Constitutional Amendments, Judiciary Committee of the United States Senate.

DEAR SENATOR LANGER: At the regular weekly meeting of the Reno Kiwanis Club held this date during the noon hour, the following resolution was unanimously passed:

"*Be it resolved*, That the Reno Kiwanis Club of the city of Reno, State of Nevada, have this day unanimously voiced their attitude in favor of Senate Joint Resolution 84, which provides for the abolition of the electoral college system and for the presidential primary in each State and for the election of the President and Vice President by popular vote of the people; and

"*Be it further resolved*, That a copy of this resolution be forwarded to Senator Langer with the request that he present it to the committee of which he is chairman, that it act favorably upon Senate Joint Resolution 84 now being considered by said committee."

Respectfully submitted.

GERALD BARNETT,
President of Reno Kiwanis Club, Reno, Nev.

Attest: A true copy.

J. B. CUNNINGHAM, *Secretary.*

[From Santa Cruz (Calif.) Labor Journal, April 15, 1952]

NORDSKOG LEADING FIGHT FOR DIRECT VOTE ON PRESIDENT—PROPOSES ABOLITION OF PRESENT ELECTORAL COLLEGE SYSTEM

Andrae Nordskog, well-known author, journalist, and financial authority, who first organized the Presidential Direct-Election League in 1928, is again spearheading the movement to abolish the antiquated electoral college system and provide for the nomination and election of President and Vice President by the popular vote of the people.

Headed by brass bands, torchlight automobile parades were arranged by Nordskog in 1928 when oldtime patriotic rallies were held in public school auditoriums for the discussion of how to abolish the electoral college system and provide for a new system of both nominating and electing candidates for the two highest offices in the land by popular vote so as to make the President and Vice President responsive to the public will instead of permitting them to become pawns in the hands of special interests.

Following Nordskog's national campaign from 1928 to 1932 when he spoke on this subject 15 times in Nebraska alone, United States Senator George W. Norris of that State introduced a Senate Joint Resolution calling for an amendment to the national Constitution wherein the electoral college system would be abolished and the President and Vice President would be elected by popular vote. This resolution was voted on in 1934 with 53 yes, and only 20 no votes, coming within 2 votes of having the required two-thirds majority, thus failing to carry.

Nordskog says that eight similar resolutions have been filed in Congress since that time but no action has been taken on any of them.

On February 4, this year, the executive committee of 9 members of the National Association of Secretaries of State, meeting in New Orleans, appointed a special committee of 3 to present a proposal for the abolition of the electoral college system and for the popular vote plan at the State Secretaries' Annual Convention to be held in Providence, R. I., June 24, 25, 26, 1952. Frank M. Jordan, secretary of state of California, is a member of that special committee.

The secretary of state of Rhode Island, host of the convention, and the secretary of state of Arkansas, program chairman, have invited Mr. Nordskog to speak before the entire membership on the afternoon of June 25 on this vital subject. Nordskog is now preparing an amendment to the national Constitution which will be revealed for the first time when he speaks before that convention; an amendment which he avers will be "bulletproof" against any possible political manipulation, and one which will forever safeguard the sacred right of the voter in selecting the type of President and Vice President he wants, instead of as at present being dependent upon the unpredictable gyrations of convention delegates who are subject to boss control.

Mr. and Mrs. Nordskog, both concert singers, had reserved spaces on the Monarch airplane to fly from New York to London on June 1 for a concert tour of 12 European nations this summer, but at the insistence of friends canceled this tour in favor of bringing the message of this vital constitutional proposal to the American people this summer while the iron is hot.

Any cities or towns desiring Mr. Nordskog's appearance to speak on this subject will also have the privilege of hearing his wife, Gertrude Nordskog, dramatic soprano, sing. Communications may be sent to Andrae Nordskog, main P. O. box 2510, Los Angeles 53, Calif.

Mr. NORDSKOG. This is from the Santa Cruz Labor Journal, April 15, 1952, and the same article was published by the Editor and Publisher, Joseph Bredsteen. He is the publisher of 15 American Federation of Labor newspapers. And his newspaper goes to all of the card-carrying members of the A. F. of L. in all those northern cities. It is a "must" with them. When they pay their dues, they have got to pay for this paper. So it is a very fine medium through which to reach them on a measure of this kind.

So that was published in 15 papers. You may put that in the record if you so desire.

The Nevada Evening Journal comes from Nevada, Iowa, near Ames, the college town, where Mrs. Nordskog and I both appeared on the television. That is the only educational station, in fact the only television station, in the State of Iowa, and that radiates 300 or 400 miles out from there, so we had a wonderful opportunity of meeting at least a quarter of a million people there. Ames is the next town to that. If you want, you can put that in the record.

(The material referred to is as follows:)

[From Nevada (Iowa) Evening Journal, Saturday, July 26, 1952]

AROUND THE TOWN WITH NELL—FORMER STORY COUNTIAN SPEARHEADING MOVEMENT FOR DIRECT NOMINATIONS

It was this "Round the Town" editor's privilege a few days ago (when he was in the city for a few hours) to have a chat with Andrae Nordskog, of Los Angeles, Calif., author, educator, publisher, who had recently returned from Providence, R. I., where he had been keynote speaker before the National Association of Secretaries of State—his topic being "Direct Election of President," and abolition of the electoral college system.

At a meeting of the National Association of Secretaries of State held in New Orleans, February of this year, the association appointed a committee of three members to prepare for the presentation at its annual convention in Providence in June, a proposal for the election of President and Vice President of the United States by popular vote and the abolition of the electoral college system—and Andrae Nordskog was invited to make the keynote speech favoring this proposal because of his years of untiring effort to bring about this much-needed change.

After having given 1,700 public talks throughout the Nation on the subjects of the Science of Money and Governmental Financing, Mr. Nordskog, who organized the Presidential Direct-Election League in 1928, is again spearheading a nationwide movement for an amendment to the United States Constitution to provide for the nomination and election of President and Vice President by the popular vote of the people, and for the abolition of the electoral college system.

HAS DESIGNED PLAN

Mr. Nordskog has spent a big part of 25 years in research work with the highest election officials of cities, counties, and States in an effort to work out a sound election plan. He has now designed a plan which he revealed at the Providence, R. I., convention, which calls for a constitutional amendment providing for the nomination and election of President and Vice President by popular vote of the people and the abolition of (what he calls) the antiquate electoral college system.

In 1934 this effort came within two votes of being approved by the United States Senate. He believes that now, with the interest shown by the secretaries of state, together with an enlightened public, victory is in sight in 1953.

WHAT OTHERS SAY

Since Mr. Nordskog will be devoting much time to the promotion of his plan it is interesting to read the following press reports upon his ability as a public speaker.

"I have rarely heard a better platform performer."—Benjamin Franklin Affleck, past president of the Chicago Executive's Club.

"He is an orator of eloquence and charm. He has a commanding stage presence. His words carry conviction everywhere. Humor, pathos, good-natured ridicule, dignified invective run like silver threads through all his speeches."—Chicago Leader.

"Of all the cardinal points essential to perfect oratory, Mr. Nordskog possesses all of them."—Craig Smith, president, Trade Advisors Association, San Francisco.

ON CONSTITUTIONAL LAW

Mr. Nordskog is an authorized teacher of constitutional law. He was a member of the 1947–49 constitutional revision committee, authorized by the California Legislature to draft a new constitution for that State. In 1933, when gold, as money, was taken out of circulation by Presidential decree and turned over to privately owned Federal Reserve banks, he filed suit in the Federal courts to bring that gold into the Treasury, allegedly resulting in the

saving of million of dollars of profit for the Government, due to the increased price of the yellow metal.

AGAIN, OTHER COMMENT

"Andrae Nordskog, known to hundreds as the fighting chief of the Southern California Rate and Tariff Commission, is one of the most interesting men in public life in Los Angeles."—LOS ANGELES HERALD.

"Mr. Nordskog is one of the greatest champions for justice the people of California have ever had on their side."—BIG PINE (CAL.) CITIZEN.

"At the age of 23, Mr. Nordskog shared the lecture platform with the late William Jennings Bryan, Governor Hoch, of Kansas, and other notables."

THE LOCAL ANGLE

Which brings us down to the local angle—which is also very interesting.

Andrae Nordskog was born and raised in Story City, Iowa. He is a brother of S. B. Nordskog, of Cedar Falls, former Nevada businessman. His early-life history has an interesting local angle.

Mr. Nordskog was fiscal agent of Boone, Marshall, and Story Counties for the United States Wireless Telegraph Co. He says, "In 1909 I established the first two wireless-telegraph stations in Iowa, and Story County has the honor of pioneering in wireless.

"The first wireless message ever sent in Iowa was that of William Jennings Bryan to Governor Carroll at Des Moines when he was in Story County lecturing on the Ames Chautauqua. I shared the lecture program with William Jennings Bryan at that time."

Mr. Nordskog had with him in Nevada his charming wife, Gertrude Foy Nordskog, dramatic soprano, who accompanied him to Providence, R. I., and sang a group number before the National Association of Secretaries of State. She will accompany her husband on his trips in the interest of his proposed amendment to the Constitution of the United States.

Mr. and Mrs. Nordskog recently canceled reservations made for a flight from New York to London on the Monarch airplane for a concert tour of 12 European nations during 1952, in order to carry on this campaign of education among the American people. Mr. Nordskog is a former grand opera leading tenor.

Mr. NORDSKOG. From Lincoln, Nebr., this was the editor of whom I spoke. I didn't remember his initials, but he is James E. Lawrence. And when I was here, cooperating with your good friend, Senator Norris, his secretary, whose name I have forgotten at the present time—it was in 1941, when you and I first met, Senator, that I met her. And she gave me an introduction on a little slip of paper to this Mr. J. E. Lawrence. She wrote him, "Dear Jimmy," so she knew him quite well. And she told him to extend any courtesies to Mr. Nordskog, and so forth. This is the man who has the Norris trusteeship to publish his book, and so forth. So that is a very interesting article regarding the same thing, and he favors this 100 percent. So any material you have on this, I know that he would fully appreciate, Senator, getting any information from you. That is the Lincoln Daily Star. He has a fine newspaper.

(The material referred to is as follows:)

[Lincoln Star, July 15, 1952]

CONGRESS TO GET PROPOSAL: DIRECT ELECTION NEEDED, AUTHOR SAYS

The conduct of the Republican National Convention and other recent political developments prove the need for direct election of our highest officials, the President and Vice President of the United States, according to Andrae Nordskog, of Los Angeles.

"We all know, or should know, of attempts at bribery, of party boss control of the buying and selling of blocs of delegates for huge sums of money at our national conventions. This system must be abolished; be written off by historians as tragedies of the past," he declares.

Nordskog, who has been called one of America's outstanding political thinkers, stopped in at the Star office for a brief visit with J. E. Lawrence, editor of the Lincoln Star, and Dr. John P. Senning, retired professor of political science at the University of Nebraska.

In the discussion which followed, Nordskog argued in favor of abolishing the electoral college, and revealed that he is coauthor of a bill which would repeal the 12th amendment of the Constitution and provide for the direct election of the President and Vice President. This bill is scheduled to be placed before the 83d Congress next January.

If passed, this bill would become the 22d amendment to the Constitution. It provides for a primary election in each State, by which voters shall name their first, second, and third choice for a presidential candidate.

The person receiving the greatest number of votes would become the nominee from his State. Then, in the national election in November, the nominees from all States would appear on the ballot.

Nordskog worked closely with Nebraska's late Senator George Norris on a similar piece of legislation in 1934. That this bill failed by one vote to get the required two-thirds majority vote in the Senate was viewed by the late Senator as one of the keenest disappointments of his career.

Nordskog, who began his career as a newspaperman, sent the first wireless message for William Jennings Bryan at Ames, Iowa, in 1909. For several years he taught constitutional law in California schools, and, as a singer and instructor of vocal music was active in the inauguration of the Hollywood Bowl concerts.

But his greatest fame has come as an author and orator. As a speaker, he has shared platform honors with Charles A. Lindbergh, Gen. Robert E. Wood, Burton K. Wheeler, and other notable speakers. He was the keynote speaker at the national convention of secretaries of State at Providence, R. I., June 24–29, where he explained his views on direct election.

Many will remember Mr. Nordskog as the private individual who filed suit against the Federal Reserve banks in 1933 to disgorge the solid coins and bullion taken out of circulation by Presidential decree from the Federal Reserve System and turn them over to the United States Treasury. It has been estimated that his victory in this suit has saved the people of the United States 7 billion dollars profit over the past 17 years.

And he financed this battle with funds from his own pocket, he says without regret.

Mr. NORDSKOG. Then I have this here, which I think is just of historic significance: Great Political Revival. That is the first little brochure that we sent out from the Presidential Direct-Election League of America. I have the date here, Tuesday, May 29, 1928, at 8 p. m. And it was advertising the big meeting we had. We had about 2,000 people out at that time, and it tells there about the brass bands. I think that should go in the records just as a matter of history.

If you also want a copy of our first letterhead, I had that photostated. I only had one copy left of that, so I photostated that for your records.

(The material referred to is as follows:)

ANDRAE NORDSKOG ORGANIZED GROUP IN 1928

GREAT POLITICAL REVIVAL

Bring the Government Back to the People

We Want One Hundred Per Cent Democracy

We Want the Direct Election of the U. S. President

We Want to Abolish the Oligarchical Electoral-College System

This is the Greatest Move Toward FREEDOM since the

SIGNING OF THE DECLARATION OF INDEPENDENCE

Come, Bring your Neighbors, and Sign this New Declaration of FREEDOM from the corrupt TEA POT DOME Political Machine

Powerful speakers of national repute will tell facts that will rock the nation. Heald's Pacific American Band of 35 pieces will stir you with music that inspired the PATRIOTS OF OLD.

Old Fashioned Political Torch Light automobile parade headed by the Band will form at Avenue 50 and Pasadena Avenue at 7 P. M. Sharp and procede on Pasadena Ave. to York Boulevard to North Avenue 54 thence to Franklin High School.

Come Join the Parade and help make history.

The Time: Tuesday, May 29, 1928, 8. P. M. sharp
The Place: Franklin High School Auditorium, 820 No. Avenue 54

PRESIDENTIAL DIRECT-ELECTION LEAGUE OF AMERICA

ANDRAE B. NORDSKOG, chairman — FLORENCE WIRTH, Sec'y
CHAS. C. WOODARD, Financial Sec'y — W. E. ELLIS, Treasurer

ANDRAE B. NORDSKOG, EXECUTIVE CHAIRMAN — R. G. VANS, EXECUTIVE SECRETARY — W. E. ELLIS, TREASURER

8842 SOUTH MENLO AVENUE, LOS ANGELES, CALIF.

PRESIDENTIAL DIRECT-ELECTION LEAGUE OF AMERICA

Organized May 29th, 1928

MOTIVE: AMEND OUR NATIONAL CONSTITUTION SO AS TO PROVIDE FOR THE DIREQT ELECTION OF OUR PRESIDENT AND VICE-PRESIDENT AND FOREVER ABOLISH OUR ANTIQUATED ELECTORAL-COLLEGE SYSTEM

Mr. NORDSKOG. Then, here is the Berkeley Daily Gazette. This is dated August 14, 1952, by Mervin D. Field, director, the California Poll, sort of a Gallup Poll in California. And at the top he says: "7 Out of 10 Prefer Nationwide Primary to Party Conclaves." And he says, in part, and I will read just a small part:

While the nominating conventions held by the Republicans and Democrats in Chicago last month captured the attention of most of the Nation, Californians do not think they are necessarily the best way to nominate candidates for the Presidency.

Expressing their views on the issue of political conventions versus a nationwide primary, 7 out of 10 Californians told interviewers for the California Poll that they would favor a nationwide primary to select candidates.

I think that is significant, and if you wish to introduce that you may.

(The material referred to is as follows:)

[From Berkeley (Calif.) Daily Gazette, August 14, 1952]

CALIFORNIA POLL—7 OUT OF 10 PREFER NATIONWIDE PRIMARY TO PARTY CONCLAVES

(By Mervin D. Field, director, the California poll)

While the nominating conventions held by the Republicans and Democrats in New York last month captured the attention of most of the Nation, Californians do not think they are necessarily the best way to nominate candidates for the Presidency.

Expressing their views on the issue of political conventions versus a nationwide primary, 7 out of 10 Californians told interviewers for the California Poll that they would favor a nationwide primary to select candidates. Only about 1 in 5 thought that the present political convention system would be a better method of nomination.

It happens that both California delegations to the conventions remained steadfast to the end in voting for the candidates selected by the voters back home. While their reasons for doing this may have been different, in this sense they fulfilled the principle of a preferential primary of voting for the California electorate's choices on every rollcall.

At the Republican convention, the California delegation stood by Gov. Earl Warren even after Gen. Dwight Eisenhower had obtained a clear majority of the delegates. Senator Estes Kefauver also had the loyal support of the California Democratic delegation, even when it became clear he could not win.

PUBLIC OPINION

On the heels of the two conventions, California Poll interviewers talked to a scientifically selected cross section of the California public and questioned them as follows on the convention issue:

"Some people have said that it would be better to choose presidential candidates in a nationwide primary election than to pick them in political party conventions as we do now. Which method do you think would be better—a nationwide primary election, or political party conventions?"

Here are the answers given as the memory of both conventions was still fresh in minds of most of the public:

Prefer nationwide presidential primary—all voters, 69 percent. Democrats, 67 percent. Republicans, 72 percent.

Prefer political party conventions—all voters, 20 percent. Democrats, 21 percent. Republicans, 18 percent.

No opinion—all voters, 11 percent. Democrats, 12 percent. Republicans, 10 percent.

Although slightly fewer Democrats than Republicans favor the nationwide primary idea, the difference is small, and the issue could be called nonpartisan.

SEVERAL PLANS OFFERED

Several plans to set up a nationwide presidential primary have been advanced. Senator Paul Dougins of Illinois and Representative Charles E. Bennett of Florida have proposed that Congress pass a law directing the Attorney General to work out with individual States a plan for such an election with the Federal Government paying part of the expense.

Senator George Smathers of Florida had proposed a constitutional amendment which would make primaries for President a part of constitutional law.

A time-honored method of selecting candidates grew up to meet the needs of the times. (Conventions have no special authorization in either the United States Constitution or in direct Federal law.) Before modern means of transportation and communication were developed, it was impossible for men who were seeking the nomination to get around to see the mass of voters. For this reason, the custom of having conventions in centrally located cities was adopted so that representatives of the voters of different parties could meet the candidates and select one as the party standard bearer.

PURPOSE OUTMODED

Now that modern means of transportation and communication have made it possible for men who are seeking the nomination to present their views and their personalities to nearly every corner of the United States in a short time, one of the main reasons for having nominating conventions has virtually disappeared.

The answers of Californians to the question asked by the California Poll is an expression of the feeling that the Nation has outgrown the need for conventions. The public can see and hear for itself the men who are running and they no longer feel that they need to delegate the authority to choose a party representative to the few people who can attend a convention.

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Mr. NORDSKOG. I made a little study, Mr. Chairman, of the previous testimony that you were so kind as to let me read yesterday, and there are only one or two things. I think it was Senator Kefauver that made mention of this. Senator Kefauver said that of these States, only three, including California, require the delegate to be pledged to a certain candidate, and so forth. I would like to particularly have you call that to Senator Kefauver's attention, that the California law does not require the pledge; that, as I stated in my talk today, they just prefer it. And, of course, they do not have to vote for the candidate. They just change it at will.

There are many things that I have touched upon in others of the talks that I have made throughout the United States, and I never stereotype a talk. It is just against my grain. I only do it when I

am on the radio or television, when I have to do it. I usually just take some high spots like that and then make reference to them. And then down through these, I have selected most of the material that I have used in my presentation to your honorable committee.

Oh, yes. Here is something very important. Wherever I have been, most of the places I have had petitions, just typed them myself. And I want you honorable gentlemen to realize that Mr. Nordskog, with no stenographic help, and just doing this himself at nights, has had an awful lot of work to do typing petitions and all that sort of stuff. But I would make them up in this form:

PETITION TO CONGRESS OF THE UNITED STATES

We, the undersigned citizens of the United States of America, do hereby petition the Congress of the United States to adopt legislation necessary for the amendment to the Constitution, whereby the electoral-college system will be abolished and which will provide for the nomination of candidates for President and Vice President by the popular vote of the people, and for the election of President and Vice President by the popular vote of the people.

I appreciate the names that are on this particular petition, because it is headed by Rupert Hughes, the famous novelist, who is pictured here with Mrs. Roosevelt, and so on. All of the undersigned are members of the Hollywood Authors Club, and these men are the writers of Hollywood, the scenario writers, book writers, and all that sort of stuff.

I am not going to clutter up your files with those names, because in many cases the names are not legibly written, but I refer to them quickly. These are some from the Hollywood's Woman's Club, and ever so many petitions have not been delivered to me, because after I would leave the committees they would phone and say they had them, and I failed to call and get them, and in many cases they failed to send them. These are Hollywood, Beverly Hills, Burbank, and Glendale people.

Then here is something that will be, I know, very interesting to you, Mr. Chairman. You know where Upham is in North Dakota?

The CHAIRMAN. Very well. I have been there many times.

Mr. NORDSKOG. It is a small town?

The CHAIRMAN. A town of about 400 people.

Mr. NORDSKOG. Yes. There was an aged Norwegian, Arne H. Moen. He had written to me several years ago. He has read several of my books. And he said, "Mr. Nordskog, what are you doing for your country at the present time?" So I told him about this activity. He said, "Send me a petition." I did, and he filled it out, and then the dear old fellow wrote and said that the doctor "says my 82-year-old heart isn't so strong any more, but as long as I can walk I will do this."

And he had petitions from 20 towns up around Upham. You will recognize perhaps some of those. If you want that particular petition, you may keep that, because that is from your own State. And he has just tromped all over the country to get those, and I appreciate it very much.

(The petition referred to is as follows:)

PETITION TO CONGRESS OF THE UNITED STATES

We, the undersigned citizens of the United States of America, do hereby petition the Congress of the United States to adopt legislation necessary for the amendment to the Constitution, whereby the electoral college system will be

PETITION TO CONGRESS OF THE UNITED STATES—Continued

abolished and which will provide for the nomination of candidates for President and Vice President by the popular vote of the people, and for the election of President and Vice President by the popular vote of the people.

A. P. Aardahl, White Earth, N. Dak.
T. A. Thompson, White Earth, N. Dak.
Edward Dannewt, White Earth, N. Dak.
Elmo Norstedt, White Earth, N. Dak.
Ralph Norstedt, White Earth, N. Dak.
M. C. Peterson, White Earth, N. Dak.
E. K. Jellised White Earth, N. Dak.
Carl Brown, White Earth, N. Dak.
Emmett Moore, White Earth, N. Dak.
James Aardahl, White Earth, N. Dak.
Martin Bingen, Palermo, N. Dak.
Johnny Scholdrup, Palermo, N. Dak.
Olaf Holmen, White Earth, N. Dak.
O. S. Hanson, White Earth, N. Dak.
Joe Hanson, White Earth, N. Dak.
Otto Mahowald, White Earth, N. Dak.
Mrs. Ralph Norstedt, White Earth, N. Dak.
Maynard Godejohn, White Earth, N. Dak.
John G. Hanson, White Earth, N. Dak.
Mrs. J. G. Hanson, White Earth, N. Dak.
Mrs. James Aardahl, White Earth, N. Dak.
Mrs. A. P. Aardahl, White Earth, N. Dak.
Eugene H. Enger, White Earth, N. Dak.
Oscar Wardlow, White Earth, N. Dak.
Ivan Olson, White Earth, N. Dak.
T. E. Stone, White Earth, N. Dak.
Peter Locken, White Earth, N. Dak.
Daniel Meland, White Earth, N. Dak.
Melvin Kjosen, White Earth, N. Dak.
Carl Thompson, White Earth, N. Dak.
Vernon Thompson, White Earth, N. Dak.
Oscar Roan, White Earth, N. Dak.
Roy Johnson, White Earth, N. Dak.
Mildred Thompson, White Earth, N. Dak.
Carl Hanson, White Earth, N. Dak.
Mrs. Carl Hanson, White Earth, N. Dak.
J. H. MacMonagle, White Earth, N. Dak.
Carl C. Locken, White Earth, N. Dak.
Mrs. Carl Locken, White Earth, N. Dak.
Johnny Nelson, White Earth, N. Dak.
Mrs. Roy Johnson, White Earth, N. Dak.
Mrs. Joe Hanson, White Earth, N. Dak.
Mrs. Fred Franson, White Earth, N. Dak.
Karl Meland, Ross, N. Dak.
Mrs. Karl Meland, Ross, N. Dak.
Harold Roehl, White Earth, N. Dak.
Mrs. J. C. Law, White Earth, N. Dak.
Philip Eroos, White Eearth, N. Dak.
J. C. Law, White Earth, N. Dak.
Fred Franson, White Earth, N. Dak.
John D. Carter, White Earth, N. Dak.
Mrs. John D. Carter, White Earth, N. Dak.
Mrs. Olaf Holmen.
E. G. Enger, White Earth, N. Dak.
Mrs. E. G. Enger, White Earth, N. Dak.
A. Grotter, White Earth, N. Dak.
Sim Fox, White Earth, N. Dak.
Mrs. Sim Fox, White Earth, N. Dak.
E. F. Barst, White Earth, N. Dak.
Mrs. M. C. Peterson, White Earth, N. Dak.
Mrs. G. O. Baugs, White Earth, N. Dak.
Gust Baugs, White Earth, N. Dak.

PETITION TO CONGRESS OF THE UNITED STATES—Continued

Frank LaBar, White Earth, N. Dak.
Clarence Helling, White Earth, N. Dak.
Forest Estby, Powers Lake, N. Dak.
Selmer Engebretson, Minot, N. Dak.
Ole P. Lokken, White Earth, N. Dak.
Chas. Mork, White Earth, N. Dak.
Olaf R. Tvenge, White Earth, N. Dak.
Adolph Brinden, White Earth, N. Dak.
Margaret Brinden, White Earth, N. Dak.
D. Danielson, White Earth, N. Dak.
Joseph B. Zunich, White Earth, N. Dak.
Axel Anderson, White Earth, N. Dak.
Albert Dannewitz, White Earth, N. Dak.
Mrs. Anna Dannewitz, White Earth, N. Dak.
I. M. Olsen, Stanley, N. Dak.
Harry C. La Bar, White Earth, N. Dak.
T. T. Kongslie, Upham, N. Dak.
Arne H. Moen, Upham, N. Dak.
Berry Fan, Upham, N. Dak.
Mrs. Berry Fan, Upham, N. Dak.
I. E. Werle, Upham, N. Dak.
Elmo, Moen, Upham, N. Dak.
L. H. Moen, Upham, N. Dak.
George Kongslie, Upham, N. Dak.
Johanna Moen, Upham, N. Dak.
Annette Kongslie, Upham, N. Dak.
Henry Moen, Upham, N. Dak.
Edwin L. Moen, Upham, N. Dak.
Mrs. Edwin Moen, Upham, N. Dak.
O. S. Lundervold, Upham, N. Dak.
Harley Moen, Denbigh, N. Dak.
Mrs. Harley Moen, Denbigh, N. Dak.
Lloyd Moen, Denbigh, N. Dak.
Mrs. Lloyd Moen, Denbigh, N. Dak.
O. M. Anderson, Upham, N. Dak.
B. C. Jacobson, Upham, N. Dak.
William Ahner, Upham, N. Dak.
Gideon Mehlhoff, Upham, N. Dak.
Chris Hillman, Bantry, N. Dak.
Wm. Johnson, Bantry, N. Dak.
George F. Rice, Upham, N. Dak.
Theo. O. Miller, Upham, N. Dak.
Alfred Berg, Upham, N. Dak.
Lester Moer, Upham, N. Dak.
Henry Schnabel, Upham, N. Dak.
Henry Schepp, Upham, N. Dak.
Egon Gessney, Upham, N. Dak.
A. Swanson, Upham, N. Dak.
G. J. Jurgenson, Upham, N. Dak.
Lester Becker, Upham, N. Dak.
Reuben T. Toueplee, Upham, N. Dak.
G. L. Christianson, Upham, N. Dak.
Selmer Rodsold, Upham, N. Dak.
Aug Zeletzh, Upham, N. Dak.
Lester Gulbranson, Upham, N. Dak.
Hjolmar Goodman, Upham, N. Dak.
Finley R. Nielsen, Upham, N. Dak.
Henry Smith, Upham, N. Dak.
J. O. Almquist, Upham, N. Dak.
Wm. Mettler, Upham, N. Dak.
Henry S. Johnson, Bantry, N. Dak.
Fred K. Miller, Deering, N. Dak.
Kenneth L. Miller, Upham, N. Dak.
S. F. Magnuson, Upham, N. Dak.
Andrew Burlog, Upham, N. Dak.

PETITION TO CONGRESS OF THE UNITED STATES—Continued

Lars A. Holte, Upham, N. Dak.
Morgan Erickson, Upham, N. Dak.
Ellard Swanson, Bantry, N. Dak.
C. A. Knights, Upham, N. Dak.
Peter Pehrson, Upham, N. Dak.
Arthur Grondahl, Deering, N. Dak.
Andrew H. Christensen, Upham, N. Dak.
A. J. Rubbert, Upham, N. Dak.
T. T. Kongslie, Upham, N. Dak.
W. H. Reinke, Upham, N. Dak.
Aaron Torr, Bantry, N. Dak.
Herman Torno, Upham, N. Dak.
Walter J. Boye, Gardiner, N. Dak.
Reuben Moen, Upham, N. Dak.
Orville K. Herschlip, Upham, N. Dak.
Lester F. March, Upham, N. Dak.
Andrew Halvorson, Upham, N. Dak.
Henry Johnson, Bantry, N. Dak.
J. A. Wik, Upham, N. Dak.
Ben Mittler, Upham, N. Dak.
H. R. Welstad, Upham, N. Dak.
Bjarne Skar, Upham, N. Dak.
Oliver Lunde, Upham, N. Dak.
John Reiler, Garslena, N. Dak.
W. B. Shornski, Upham, N. Dak.
Henry Schnakel, Upham, N. Dak.
Lester Becker, Upham, N. Dak.
Marvin Goodman, Upham, N. Dak.
Ole Michelson, Upham, N. Dak.
Robert Geske, Box E., Kramer, N. Dak.
Ed Galvin, 313 21st Street NW., Minot, N. Dak.
Wilfred Ralston, Souris, N. Dak.
Gerald Cornoy, Kramer, N. Dak.
Jacob Schmdit, Kramer, N. Dak.
Mrs. Jacob Schmidt, Kramer, N. Dak.
Johnnie Debele, Kramer, N. Dak.
Nathaniel Brandt, Kramer, N. Dak.
Louis Gud, Kramer, N. Dak.
Craig Cattanach, Kramer, N. Dak.
Glen Giffen, Souris, N. Dak.
August Welk, 401 First Street NE., Minot, N. Dak.
Mrs. Robert Geske, Kramer, N. Dak.
Alvin Evinson, Kramer, N. Dak.
Fred Doman, Kramer, N. Dak.
Gustav Krenz, Kramer, N. Dak.
Arthur Krenz, Russell, N. Dak.
Marvin Heil, Kramer, N. Dak.
Ralph Otto, Upham, N. Dak.
Margaret Teske, Kramer, N. Dak.
Mary B. Nichol, Kramer, N. Dak.
Gustav Teske, Jr., Kramer, N. Dak.
N. A. Fuchs, Kramer, N. Dak.
E. O. Knudson, Kramer, N. Dak.
Emory Marzolf, Kramer, N. Dak.
Ernest Gessner, Kramer, N. Dak.
Marvin Thiel, Kramer, N. Dak.
Henry A. Debele, Kramer, N. Dak.
Wm. G. Teske, Kramer N. Dak.
Ephraim Brandt, Kramer, N. Dak.
Edwin Brandt, Kramer, N. Dak.
Herman Kuebler, Souris, N. Dak.
Arthur H. Narlmann, Kramer, N. Dak.
Max Teske, Kramer, N. Dak.
Henry Torno, Kramer, N. Dak.
Emanuel Brandt, Kramer, N. Dak.

PETITION TO CONGRESS OF THE UNITED STATES—Continued

Raymond Gust, Kramer, N. Dak.
Bernie Torno, Kramer, N. Dak.
Alfred Teske, Kramer, N. Dak.
Arthur Czarnetzki, Gardena, N. Dak.
Fred Badke, Gardena, N. Dak.
Raymond Badke, Kramer, N. Dak.
Emilia Badke, Gardena, N. Dak.
George Thiel, Kramer, N. Dak.
Herbert Butsch, Upham, N. Dak.

Mr. NORDSKOG. Here is a petition from Chicago. I made a speech in Chicago, and the people have sent me petitions from there, and also from down at San Clemente, and Dana Point, and San Juan Capistrano, where the swallows fly on March 17, on St. Patrick's Day. They had a union meeting of the high school district from several cities and towns on the coast down there, and they, too, all signed these. In fact, I never had enough petitions. In every case, they would say, "Where are more petitions?" I promised to send them, and in most cases I have forgotten to do it, because I, too, have to earn a living, and I have other things to do except this, although I am doing this because I love to do it.

And then in Tucson, Ariz., the secretary of state of Arizona, Wesley Bolin, of whom I told you, who was the president of the National Association of Secretaries of State—came from Phoenix to Tucson, driving 135 miles, 270 miles roundtrip, just to introduce me. There were a thousand people in the Union High School that night, at the people's forum. The newspapers were very courteous. They gave us a big space to review it. And they didn't have enough petitions to go around in Tucson, Ariz.

There are some from Long Beach; 113 businessmen, members of the Rotary Club, in about 5 minutes signed this petition.

I would like to have your committee just know the reaction that I personally have had from the people, because I have never enjoyed a campaign such as I have this. It has been heartwarming, because I find that the people are so willing to support this proposal. They know the time has come, and we have got to change this.

The CHAIRMAN. It would interest you, Mr. Nordskog, to know that this August Welk, of Minot, N. Dak., whose name appears on this petition, is a cousin of the famous conductor who has these nationwide television programs.

Mr. NORDSKOG. Isn't that interesting. I thought you would be interested particularly in that petition.

The CHAIRMAN. There are a great many people on here whom I know.

Mr. NORDSKOG. I brought along something that will be so convincing, if we take the time to review it. In the first place, the legal journal (the Los Angeles Daily Journal) publishes the number of precincts, and so forth, during the elections. That is an official "must." But in this paper, in 1948, they advertise that the presidential primary was to be held the first day of June 1948. Now, that is the correct date, all right. But the election code says May, and the legislature has failed to notice that, so that they are actually violating their own code by having it on the right day. I won't take any exception to that. It is just an oversight by the legislature. But then, anyone

like myself, who has done so much research work, cannot help but take cognizance of it, because that is what confuses the election officials. Many times they may fail to perform their duties, because they don't know what to do. They are told by the code to do one thing, and by the instruction sheets to do something else.

I have before me, dated November 8, 1932, a copy of a document showing the method by which they used to list the names of the presidential electors. And on this ballot it says, "For electors of President and Vice President of the United States, vote for 22." Then they have got the names of the political parties, Prohibition, Socialist, Republican, and so on. I just want you to see that that is the way it was. And later on they changed it, so that they have taken the names of the delegates, or the electors, off, and then put the name of the President and Vice President on, which is a misnomer. It is incorrect. And if it ever goes to the Supreme Court, the Supreme Court will declare that to be unconstitutional.

They say, "Mr. Nordskog, why don't you test it? Why don't you go into court?" I have tried it 3 or 4 different times, and every time we are stymied by the district attorney, the city attorney, and the attorney general, by this statement. They say, "Mr. Nordskog, unless you are a candidate that was adversely affected by that, you are not qualified to present such a case in court." Well, then they just laugh me out of court. We have never had a test of it.

This ballot I have from May 1936, presidential primaries, is from San Francisco.

The CHAIRMAN. What puzzles me is: Why do you not become a candidate, so that you will be eligible to take it to court?

Mr. NORDSKOG. Well, now, Senator, I think you are putting bad ideas in Mrs. Nordskog's head. Because, you see, we were married several years ago, and we are sort of making a vacation as well as a political matter of this, and we are kind of on our honeymoon together. But thanks for the compliment, Senator.

Now, there is a San Francisco ballot that has 29 blank spaces on the machine. At the same time there are 48 delegates to be elected. And so, when they say, "Use the write-in," that is absolutely physically impossible. So the voter is stymied and denied his constitutional basic rights, so decided by all the courts, of writing in what he desires on the ballot.

Then I have one of 1940. That is the San Francisco machine ballot. We haven't used the machine ballots much in southern California. The county bought, I think, 200 machines for experimental purposes, but in this last election there were so many propositions on it they could not use the machine ballots. So the machine ballots were for sale for junk.

Now, that is for 1940, November 5. These are the presidential electors, and so forth. The spaces there are not adequate to provide for a write-in should a voter decide to do that.

Here in 1940, this is the November ballot, Mr. Chairman, and under the caption of "Presidential Electors," they have printed the names of the presidential and vice presidential candidates. And, course, that is a misnomer, and if it ever goes to any court, whether it is a superior court or supreme court, they would have to say, "This thing is not legal." Because how can the secretary of state certify it? And I said to Frank Jordan, the secretary of State, when I was up there

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP;
NEVER WITH PEN OR PENCIL
(ABSENTEE BALLOTS may be marked with PEN AND INK OR PENCIL.)
(Fold Ballot to this Perforated Line, leaving Top Margin exposed)

PERFORATED LINE

OFFICIAL CONSOLIDATED PRIMARY ELECTION BALLOT

REPUBLICAN PARTY

14th Congressional, 38th Senatorial, 44th Assembly District

To vote for the group of candidates preferring a person whose name appears on the ballot, stamp a cross (+) in the square in the column headed by the name of the person preferred.

FOR DELEGATES TO NATIONAL CONVENTION. VOTE FOR ONE GROUP ONLY.

Candidates Preferring EARL WARREN
☐
A cross (+) stamped in this square shall be counted as a vote for all candidates preferring Earl Warren.

To vote for a person whose name appears on the ballot, stamp a cross (+) in the square at the RIGHT of the name of the person for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write his name in the blank space provided for that purpose. If you wrongly stamp, tear or deface this ballot, return it to the Inspector of Election and obtain another. On absent voter's ballots mark a cross (+) with pen or pencil.

CONGRESSIONAL

Representative in Congress, Fourteenth District — Vote for One

- HELEN GAHAGAN DOUGLAS — Member of Congress, 14th California District
- ROBERT M. ANGIER — Cost Analyst
- W. WALLACE BRADEN — General Manager
- MAXIME A. DuPREE
- W. HIRAM JOHNSON
- MARTIN J. McMANUS, JR. — Lawyer
- NOD J. MULVILLE — Referee Municipal Court
- RUSSELL H. REAY

COUNTY COMMITTEE

Member County Central Committee, Forty-Fourth Assembly District — Vote for Seven

- EARL E. EMORY — Incumbent
- ROBERT M. WADDELL — Incumbent
- CHARLES H. DRAPER
- STANLEY J. WEISS
- WILLIAM FRANCIS IRELAND — Incumbent
- JOANNA MOSER
- MORRIS MAJOR BOWLES

JUDICIAL

Judge of the Superior Court, Office No. One — Vote for One

- HARRY R. ARCHBALD — Judge of the Superior Court

Judge of the Superior Court, Office No. Two — Vote for One

- HARTLEY SHAW — Judge of the Superior Court

Judge of the Superior Court, Office No. Three — Vote for One

- FRANK C. COLLIER — Judge of the Superior Court

JUDICIAL

Judge of the Superior Court, Office No. Ten — Vote for One

- FRANK G. SWAIN — Judge of the Superior Court
- WILLIAM R. JAMES — Attorney

Judge of the Superior Court, Office No. Eleven — Vote for One

- ARTHUR CRUM — Judge of the Superior Court

Judge of the Superior Court, Office No. Twelve — Vote for One

JUDICIAL

Judge of the Superior Court, Office No. Nineteen — Vote for One

- FRED MILLER — Judge of the Superior Court

Judge of the Superior Court, Office No. Twenty — Vote for One

- PAUL VALLÉE — Judge of the Superior Court

Judge of the Superior Court, Office No. Twenty-One — Vote for One

- STANLEY N. BARNES — Judge of the Superior Court

JUDICIAL

Judge of the Superior Court, Office No. Twenty-Eight — Vote for One

- OTTO J. EMME — Judge of the Superior Court

Judge of the Superior Court, Office No. Twenty-Nine — Vote for One

- WILLIAM B. McKESSON — Judge of the Superior Court

Judge of the Superior Court, Office No. Thirty — Vote for One

- JOHN J. FORD — Judge of the Superior Court

KENNETH F. RILEY
Investigator

MOODY STATEN
Business Man

ALEC D. WILLIAMSON
Public Accountant

ERNEST E. WOOD
Attorney at Law

LEGISLATIVE

Member Assembly Forty-Fourth District — Vote for One

EDWARD E. ELLIOTT
Member Assembly, 44th District, California Legislature

STEVE M. DOW
Journalist

JULIA M. SHEEHAN
Public Relations

HORACE W. HANNA
Incumbent

JESSE F. ANSTETTE
Editor

HORACE H. APPEL
Incumbent

FRANK H. MOUSER
Incumbent

DANIEL J. PATRICK
Incumbent

Judge of the Superior Court Office No. Four — Vote for One

EDWARD T. BISHOP
Judge of the Superior Court

Judge of the Superior Court Office No. Five — Vote for One

DUDLEY S. VALENTINE
Judge of the Superior Court

Judge of the Superior Court Office No. Six — Vote for One

CARYL M. SHELDON
Judge of the Superior Court

Judge of the Superior Court Office No. Seven — Vote for One

WILLIAM J. PALMER
Judge of the Superior Court

Judge of the Superior Court Office No. Eight — Vote for One

WILLIAM S. BAIRD
Judge of the Superior Court

ARTHUR S. GUERIN
Judge of the Municipal Court

Judge of the Superior Court Office No. Nine — Vote for One

JOSEPH W. VICKERS
Judge of the Superior Court

THURMOND CLARKE
Judge of the Superior Court

Judge of the Superior Court Office No. Thirteen — Vote for One

GEORGE A. DOCKWEILER
Judge of the Superior Court

Judge of the Superior Court Office No. Fourteen — Vote for One

JOHN GEE CLARK
Judge of the Superior Court

Judge of the Superior Court Office No. Fifteen — Vote for One

NEWCOMB CONDEE
Judge of the Superior Court

Judge of the Superior Court Office No. Sixteen — Vote for One

WILLIAM R. McKAY
Judge of the Superior Court

Judge of the Superior Court Office No. Seventeen — Vote for One

ALFRED E. PAONESSA
Judge of the Superior Court

Judge of the Superior Court Office No. Eighteen — Vote for One

KURTZ KAUFFMAN
Judge of the Superior Court

RICHARD A. IBANEZ
Lawyer

Judge of the Superior Court Office No. Twenty-Two — Vote for One

PAUL NOURSE
Judge of the Superior Court

Judge of the Superior Court Office No. Twenty-Three — Vote for One

WILBUR C. CURTIS
Judge of the Superior Court

Judge of the Superior Court Office No. Twenty-Four — Vote for One

THOMAS J. CUNNINGHAM
Judge of the Superior Court

Judge of the Superior Court Office No. Twenty-Five — Vote for One

PHILIP H. RICHARDS
Judge of the Superior Court

Judge of the Superior Court Office No. Twenty-Six — Vote for One

KENNETH C. NEWELL
Judge of the Superior Court

Judge of the Superior Court Office No. Twenty-Seven — Vote for One

ORLANDO H. RHODES
Judge of the Superior Court

COUNTY

District Attorney — Vote for One

WILLIAM E. SIMPSON
District Attorney
County of Los Angeles

No. 1884586

MARK CROSSES (X) ON BALLOT ONLY WITH RUBBER

(Fold Ballot to this Perforated Line, leavin

GENERAL TICKET—14th Congressional, 38th S

INSTRUCTIONS TO VOTERS:

To vote for a candidate of your selection, stamp a cross (X) in the voting square next to the right of the name of such candidate. Where tw number of candidates who are to be elected. To vote for all or a group of persons, stamp a cross (X) in the square opposite such group. To vote amendment, stamp a cross (X) in the voting square after the word "Yes" or after the word "No." All marks except the cross (X) are forbidden.

STATE

For Electors of President and Vice-President of the United States — Vote for Twenty-two

Top of group.

DR. M. LEN HUTCHINS, Prohibition
ETHEL G. HUBLER, Prohibition
JOHN C. BELL, Prohibition
DANA G. BOLEYN, Prohibition
ALLIE SIMMONS WHEELER, Prohibition
O. U. HULL, Prohibition
W. M. NANNEY, Prohibition
J. S. EDWARDS, Prohibition
THOMAS H. JAMES, Prohibition
WM. H. MOORE, Prohibition
H. A. JOHNSON, Prohibition
JAMES P. M. JENSEN, Prohibition
MINNIE GOLDTHWAITE, Prohibition
JOSEPH FUSCH, Prohibition
W. P. FASSETT, Prohibition
J. L. ROLLINS, Prohibition
G. RATH, Prohibition
L. E. BLOCHMAN, Prohibition
M. E. LEAVES, Prohibition
M. SHELTON, Prohibition
O. OXENDINE, Prohibition
LURA HYDEN BOLEYN, Prohibition

End of group.

Top of group.

WALTER E. OWEN, Liberty
GEORGE D. PATRICK, Liberty
WARNER ABBEY, Liberty

A cross (X) stamped in this square shall be counted for each name of the group to the left.

For Electors of President and Vice-President of the United States — Vote for Twenty-two

Top of group.

UPTON SINCLAIR, Socialist
GEORGE R. KIRKPATRICK, Socialist
KATE C. GARTZ, Socialist
AARON SHAPIRO, Socialist
ELBERT E. PORTER, Socialist
ELIJAH BACKUS, Socialist
SAMUEL WEISENBERG, Socialist
HARRY SHERR, Socialist
ISAAC C. RUBY, Socialist
ETHELWYN MILLS, Socialist
ADAM GLADYS, Socialist
CASIMIR I. OLEXIEWICZ, Socialist
AGNES H. DOWNING, Socialist
FORREST J. VOORHIS, Socialist
JOSEPH PORTON, Socialist
ALTHEA M. PAGE, Socialist
HARVEY R. EDWARD, Socialist
ADDIE M. BENEDICT, Socialist
SAMUEL S. WHITE, Socialist
BLANCHE E. TIPTON, Socialist
GEORGE A. GARRETT, Socialist
ROBERT B. WHITAKER, Socialist

End of group.

Top of group.

CARLOS S. STANLEY, Republican
MRS. J. I. ELIZABETH LAWLESS, Republican
HARRY A. MILTON, Republican
HERBERT KERRIGAN, Republican

A cross (X) stamped in this square shall be counted for each name of the group to the left.

For Electors of President and Vice-President of the United States — Vote for Twenty-two

Top of group.

ANNE BANNING, Democrat
EDWARD W. CAHILL, Democrat
JOHN P. CARTER, Democrat
P. J. CONKLING, Democrat
CHARLES L. CULBERT, Democrat
R. F. DEL VALLE, Democrat
CHARLES O. DUNBAR, Democrat
JOHN T. GAFFEY, Democrat
NICOLA GIULII, Democrat
PETER J. HAGGERTY, Democrat
HENRY E. HARWOOD, Democrat
MRS. CLARA H. HELLER, Democrat
J. ED HUGHES, Democrat
W. R. JACOBS, Democrat
MATTISON B. JONES, Democrat
JOHN E. KING, Democrat
JOHN STEPHEN McGROARTY, Democrat
PATRICK FRANCIS O'ROURKE, Democrat
JACKSON H. RALSTON, Democrat
CALVIN L. RUSSELL, Democrat
GEORGE M. SPICER, Democrat
MRS. MARY MARSHALL WILEY, Democrat

End of group.

A cross (X) stamped in this square shall be counted for each name of the group to the left.

CONGRESSIONAL

United States Senator — Vote for One

ROBERT P. (BOB) SHULER, Prohibition
TALLANT TUBBS, Republican
Rope Manufacturer
WILLIAM GIBBS McADOO, Democrat
Lawyer

Representative in Congress Fourteenth District — Vote for One

WILLIAM D. CAMPBELL, Republican
Attorney and Counselor at Law
THOMAS F. FORD, Democrat
Member of City Council

LEGISLATIVE

Member of the Assembly Sixty-Second District — Vote for One

ELLSWORTH COURTNEY, Democrat
FREDERICK M. ROBERTS, Republican
Assemblyman

JUDICIAL

Judge of the Superior Court Office No. Five — Vote for One

THOMAS L. AMBROSE
Judge of the Municipal Court
WALTER S. GATES
Judge of the Superior Court

Judge of the Superior Court Office No. Twelve — Vote for One

CHARLES P. JOHNSON
City Prosecutor of Los Angeles
ISAAC PACHT
Judge of the Superior Court

Judge of the Superior Court Office No. Thirteen — Vote for One

WILBUR C. CURTIS
Judge of the Municipal Court

CHARLES P. JOHNSON
City Prosecutor of Los Angeles

SPECIAL RECALL

NO VOTE SHALL BE COUNTED FOR ANY CANDIDATE TO BE RECALLED FROM OFFICE UNLESS THE VOTE FOR RECALL OF THE PERSON SOUGHT TO BE RECALLED

Shall JOHN L. FLEMING be recalled from the office of Judge of the Superior Court of Los Angeles County?

YES ____
NO ____

Candidates to succeed JOHN L. FLEMING in case he be removed from the office of Judge of the Superior Court of Los Angeles County.

Judge of the Superior Court — Vote for One

IDA MAY ADAMS
Judge Municipal Court Los Angeles
WILLIAM J. PALMER
Judge of the Municipal Court

THE GROUNDS ON WHICH SUCH REMOVAL IS SOUGHT ARE

(1) That the actions of said JOHN L. FLEMING as Judge of said Superior Court, in connection with receivership matters pending in said Court, constitute a violation of long and well-established principles governing judicial conduct, and directly involve the interests of the public which looks to the Court for the unprejudiced determination of the rights of litigants.

(2) That said JOHN L. FLEMING has conducted himself in his judicial office in a manner prejudicial to the proper administration of justice, and that his practices have, of necessity, interfered with the proper performance of his duties as Judge, and that his conduct has cast reflection upon the integrity of the judiciary at large and engendered the belief that the rights of the people do not receive fearless and impartial consideration in the courts of justice.

(3) That by his conduct said JOHN L. FLEMING has so impaired the confidence of the public in his fitness for the high office of Judge of the Superior Court, and has so seriously affected the good repute of the entire Court that, in the interest of fair, impartial and disinterested administration of justice he should be removed and his successor elected.

REASONS GIVEN BY JUDGE JOHN L. FLEMING OF THE LOS ANGELES COUNTY SUPERIOR COURT WHY HE SHOULD NOT BE RECALLED.

Voters of Los Angeles County:

You elected me as your Judge eight years ago by 235,000 votes. You re-elected me two years ago in the primary by a vote of over 100,000 more than my opponent.

I have served you faithfully for nine years. My decisions have been almost universally upheld by the Supreme and Appellate Courts.

In the course of my duties I have incurred the ill-will of some lawyers because I have administered justice according to the dictates of my own conscience uninfluenced by whether the attorneys who appeared before me were "big" or "little".

MY OFFICIAL CONDUCT HAS BEEN FULLY INVESTIGATED BY THE LOS ANGELES COUNTY GRAND JURY, THE UNITED STATES GRAND JURY AND BY SUPERIOR JUDGE WARNE, ASSIGNED HERE BY THE JUDICIAL COUNCIL OF THE STATE, AND NONE OF THEM FOUND CAUSE OF COMPLAINT AGAINST ME. I HAVE NEVER BEEN CHARGED WITH ANY WILFUL MISCONDUCT. IF YOU RECALL ME, YOU CONDEMN ME WITHOUT A HEARING!!!

Please bear in mind that this recall was started by ten attorneys, representing the Judiciary Committee of the Bar Association—while more than 500 lawyers have written me that they are opposed to my recall.

A Judge charged with misconduct can be removed by impeachment without cost to the public, whereas THIS RECALL ELECTION WILL COST YOU NOT LESS THAN $50,000!

If you encourage this recall, you will destroy the independence of your Judiciary, because every Judge will be continually confronted with the threat of recall every time he decides a case against any powerful political group or special interest.

IF YOU BELIEVE IN JUSTICE AND FAIR DEALING—

IF YOU BELIEVE IN AN INDEPENDENT JUDICIARY—

IF YOU BELIEVE IN SAVING THE TAXPAYERS' MONEY—

IF YOU BELIEVE IN YOUR RIGHT TO ELECT YOUR OWN JUDGE—

VOTE NO ON THE RECALL!

Faithfully yours,

JOHN L. FLEMING.

:LY WITH RUBBER STAMP; NEVER WITH PEN OR PENCIL

this Perforated Line, leaving Top Margin exposed)

ngressional, 38th Senatorial, 62nd Assembly District

such candidate. Where two or more candidates for the same office are to be elected, stamp a cross (X) after the names of all the candidates for that office for whom you desire to vote, not to exceed, however, the osite such group. To vote for a person not on the ballot, write the name of such person under the title of the office in the blank space left for that purpose. To vote on any question, proposition or constitutional cross (X) are forbidden. All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly stamp, tear or deface this ballot, return it to the Inspector of Election and obtain another.

SPECIAL RECALL ELECTIONS

L BE COUNTED FOR ANY CANDIDATE TO SUCCEED AN OFFICER SOUGHT FROM OFFICE UNLESS THE VOTER ALSO VOTES ON THE QUESTION OF THE PERSON SOUGHT TO BE RECALLED FROM OFFICE.

FLEMING be re- e of Judge of the Los Angeles	YES	
	NO	

Shall DAILEY S. STAFFORD be recalled from the office of Judge of the Superior Court of Los Angeles County?	YES	
	NO	

ceed JOHN L. FLEMING in from the office of Judge of the Los Angeles County:

Court	Vote for One
Court Los Angeles	
MER Municipal Court	

Candidates to succeed DAILEY S. STAFFORD in case he be removed from the office of Judge of the Superior Court of Los Angeles County:

Judge of the Superior Court	Vote for One
MAY D. LAHEY Judge of the Municipal Court	
WILLIAM S. BAIRD Judge of the Municipal Court	
ARTHUR E. BRIGGS Lawyer and Dean of Law School	

WHICH SUCH REMOVAL SOUGHT ARE:

of said JOHN L. FLEMING perior Court, in connection with pending in said Court, consti- long and well-established prin- judicial conduct, and directly in- of the public which looks to the prejudiced determination of the

L. FLEMING has conducted office in a manner prejudicial istration of Justice, and that his necessity, interfered with the of his duties as Judge, and that reflection upon the integrity large and engendered the belief the people do not receive fear- consideration in the courts of

conduct said JOHN L. FLEMING confidence of the public in his office of Judge of the Superior lously affected the good repute that, in the interest of fair, im- rested administration of Justice. ed and his successor elected.

Y JUDGE JOHN L. FLEMING NGELES COUNTY SUPERIOR HY HE SHOULD NOT RECALLED.

County:

your Judge eight years ago by re-elected me two years ago in of over 100,000 more than my

faithfully for nine years. My almost universally upheld by pellate Courts.

duties I have incurred the ill- because I have administered the dictates of my conscience by whether the attorneys who were "big" or "little".

ONDUCT HAS BEEN FULLY THE LOS ANGELES COUNTY UNITED STATES GRAND ERIOR JUDGE WARNE, AS- THE JUDICIAL COUNCIL OF OF THEM FOUND CAUSE T ME; I HAVE NEVER TH ANY WILFUL MISCON- CALL ME, YOU CONDEMN ME

that this recall was started epresenting the Judiciary Com- Association—whereas more than itten me that they are opposed

misconduct can be removed cost to the public, whereas CTION WILL COST YOU NOT

recall, you will destroy the Judiciary, because every tinually confronted with the time he decides a case against group or special interest. E IN JUSTICE AND FAIR

IN AN INDEPENDENT JU-

IN SAVING THE TAXPAY-

IN YOUR RIGHT TO ELECT

RECALL!

fully yours,

ge this recall, you will destroy the your Judiciary, because every continually confronted with the every time he decides a case against olitical group or special interest.

THE GROUNDS ON WHICH SAID REMOVAL IS SOUGHT ARE:

(1) That the actions of said DAILEY S. STAFFORD as Judge of said Superior Court, in connection with receivership matters pending in said Court, constitute a violation of long and well-established principles governing judicial conduct, and directly involve the interests of the public which looks to the Court for the unprejudiced determination of the rights of litigants.

(2) That said DAILEY S. STAFFORD has conducted himself in his judicial office in a manner prejudicial to the proper administration of justice, and that his practices have, of necessity, interfered with the proper performance of his duties as Judge, and that his conduct has cast reflection upon the integrity of the Judiciary at large and engendered the belief that the rights of the people do not receive fearless and impartial consideration in the courts of justice.

(3) That by his conduct said DAILEY S. STAFFORD has so impaired the confidence of the public in his fitness for the high office of Judge of the Superior Court, and has so seriously affected the good repute of the entire Court that, in the interest of fair, impartial and disinterested administration of justice, he should be removed and his successor elected.

REASONS GIVEN BY JUDGE DAILEY S. STAFFORD TO JUSTIFY HIS COURSE IN OFFICE

I DENY ALL OF THE ABOVE CHARGES.

A group, of long-standing political enemies, is responsible for the recall proceedings against me. This same small group, of lawyer-politicians, was against me when I was overwhelmingly elected by the people two years ago, and they are against me now.

These politicians, acting willfully, selfishly, and UNABLE TO INFLUENCE ME AT ANY TIME in my judicial actions, are making this attempt to recall me BECAUSE THE PEOPLE REPUDIATED THEM. The petty, vague and technical accusation of an alleged violation of judicial ethics, set forth as their reason for my recall, is NOT the real reason.

I AM NOT ACCUSED OF ANY WRONG-DOING. THERE IS NO CHARGE AGAINST ME THAT WOULD HAVE ANY STANDING IN ANY COURT. I NEVER HAVE VIOLATED MY OATH OF OFFICE. NO ACTION OF MINE EVER HAS RESULTED ADVERSELY UPON ANY MEMBER OF THE BENCH. NO CITIZEN EVER HAS SUFFERED AN INJURY AT MY HANDS.

Investigation of my conduct was made by the Grand Jury; by an impartial outside judge and, at my suggestion, by the District Attorney of Los Angeles County. ALL THREE FOUND THAT NO WRONG HAD BEEN COMMITTED BY ME. During twenty years as a public officer, interrupted only by my war service, MY PERSONAL AND JUDICIAL INTEGRITY NEVER HAS BEEN QUESTIONED. The common man and woman, without regard to race, creed or color, has ever received a fair deal in my court. Powerful, privileged groups HAVE NOT BEEN ABLE TO CONTROL ME. THE PEOPLE HAVE STAMPED THEIR APPROVAL OF ME AS A JUDGE IN THREE ELECTIONS.

To keep me on the bench Vote "NO" on this recall.

DAILEY S. STAFFORD,
Judge of the Superior Court.

Grand Jury, by an impartial outside judge and, at my suggestion, by the District Attorney of Los Angeles County. ALL THREE FOUND THAT NO WRONG HAD BEEN COMMITTED BY ME. During twenty years as a public officer, interrupted only by my war service, MY PERSONAL AND JUDICIAL INTEGRITY NEVER HAS BEEN QUESTIONED. The common man and woman, without regard to race, creed or color, has ever received a fair deal in

QUESTIONS AND PROPOSITIONS SUBMITTED TO VOTE OF ELECTORS

1 WRIGHT ACT REPEAL. Initiative Measure. Repeals Act of Legislature commonly known as Wright Act, approved by electors on referendum November 7, 1922, which Act provided for enforcement by State of California of the Eighteenth Amendment of the United States Constitution, prohibited all acts or omissions prohibited by Volstead Act, adopted penal provisions of that Act, imposed duties on courts, prosecuting attorneys, sheriffs, grand juries, magistrates and peace officers in this State, extended their jurisdiction, and provided for the disposition of fines and forfeitures

YES ___ NO ___

2 STATE LIQUOR REGULATION. Initiative Constitutional Amendment. Declares, if Wright Act is repealed, and when lawful under Federal Constitution and laws, State of California shall have exclusive right to license and regulate the manufacture, sale, possession, transportation, importation and exportation, of intoxicating liquors; prohibits public saloons, bars or drinking places where intoxicating liquors are kept, sold or consumed; permits serving wine and beer with meals furnished in good faith to patrons of hotels, boarding houses, restaurants and public eating places; permits Legislature to authorize, under reasonable restrictions, sale of liquor in original packages in retail stores where same not consumed therein.

YES ___ NO ___

3 FORECLOSURE OF MORTGAGES AND TRUST DEEDS. Initiative. Defines mortgage as contract, trust deed, or instrument, hereafter executed, making specific real property security for performance without changing possession; forbids power of sale therein; declares same enforceable solely by Court action; requires action dismissed, and mortgage reinstated, upon mortgagor paying, before judgment, amount delinquent (other than by acceleration), costs and three months advance interest; prescribes notice before execution or foreclosure sale, and twelve months redemption period during which person in possession must pay rental specified by Court or surrender possession to execution purchaser, crediting same on judgment upon redemption; permits Legislative amendments.

YES ___ NO ___

4 REMOVING RESTRICTION UPON USE OF STATE'S HALF OF HIGHWAY TRANSPORTATION TAXES. Senate Constitutional Amendment 22. Amends Section 15 of Article XIII of Constitution. Eliminates from present section provision therein which requires that State's half of revenue from taxes upon highway transportation companies be devoted exclusively to the maintenance and repair of public highways.

YES ___ NO ___

5 RACING. Initiative Measure. Creates California Racing Board, consisting of three members, appointed by Governor, empowered to regulate and license racing and wagering, within race track enclosure, by system known as Certificate System; limits racing period at each track; requires all fees collected by board be paid into California Racing Board Fund, appropriating Thirty Thousand Dollars thereof annually for payment of salaries and expenses of members of Board and its appointees, and annually dividing balance thereof between Veterans' Welfare Board and State Board of Agriculture; authorizes licenses for limited periods at county fairs or agricultural exhibits.

YES ___ NO ___

6 WAR VETERANS TAX EXEMPTION. Senate Constitutional Amendment 6. Amends Section 1¼ of Article XIII of Constitution. Exempts from taxation property to the amount of $1000 of every resident of this State who served in the army, navy, marine corps or revenue marine service of the United States in time of war and has thereafter continued in such service, provided such person or his wife does not own property of the value of $5000 or more.

YES ___ NO ___

7 LEGISLATIVE EXPENSES. Senate Constitutional Amendment 17. Amends Section 23a, Article IV, of Constitution. Increases limit upon Legislature's total daily expenses for its officers, employees and attaches, at regular session from $300 for each House to $400 for Senate and $450 for Assembly, exclusive of salaries of Secretary of Senate and Chief Clerk of Assembly and salaries and expenses of interim committees; and at special session from aggregate of $200 for both Houses to $150 for each House, exclusive of salaries of such Secretary and Chief Clerk.

YES ___ NO ___

LEGISLATIVE EXPENSES. Senate Constitutional Amendment 17. Amend[illegible] Article IV of

12 AUTHORIZING CITY OF GLENDALE, AFTER ELECTION THEREFOR, TO PAY OWNERS CERTAIN IMPROVEMENT ASSESSMENTS UPON THEIR PROPERTY. Assembly Constitutional Amendment 32. Amends Section 31 of Article IV of Constitution. Provides that City of Glendale, in Los Angeles County, when authorized by majority vote at election therefor, may pay from surplus of its public service department to owners of property at time of such authorization the amount of any assessment for replacement of water mains levied upon such property between May 11, 1921 and ratification of this amendment, and that no statute of limitations shall apply thereto.

YES ___ NO ___

13 AMENDING STATE ATHLETIC COMMISSION INITIATIVE ACT. Assembly Constitutional Amendment 26. Adds Section 25¾ to Article IV of Constitution. Declares Legislature may amend State Athletic Commission initiative act, except provisions thereof allowing wrestling and twelve round boxing contests, to provide for supervision and regulation of wrestling, boxing or sparring, matches or exhibitions, but limits boxing or sparring match or exhibition to twelve rounds not exceeding three minutes each. Appropriates State moneys derived from such matches or exhibitions, (less expenses of Commission and salaries), to maintain homes for care of war veterans, apportioning same as Legislature directs.

YES ___ NO ___

14 EXEMPTING VESSELS FROM TAXATION. Assembly Constitutional Amendment 28. Amends Section 4 of Article XIII of Constitution. Declares all vessels of more than fifty tons burden registered at any port in this state and engaged in the transportation of freight or passengers shall be exempt from taxation except for state purposes until and including the first day of January 1955.

YES ___ NO ___

15 DEPOSIT OF PUBLIC MONEYS. Assembly Constitutional Amendment 33. Amends Section 16½ of Article XI of Constitution. Extends to any public or municipal corporation within this State provisions of said section permitting deposit in national or state banks within this State of moneys belonging to or in custody of the State, or any county or municipality thereof; also extends to such public or municipal corporation provisions of said section permitting deposit in banks outside this State of moneys for payment of principal or interest of bonds issued by such corporation and payable at places outside this State.

YES ___ NO ___

16 TAX LIENS. Assembly Constitutional Amendment 2. Adds Section 31b to Article IV of Constitution. Empowers Legislature to provide that the lien of every tax, heretofore or hereafter attaching, shall cease for all purposes thirty years after such tax became a lien, or to provide that every tax, heretofore or hereafter levied, shall be conclusively presumed to have been paid after thirty years from time same became a lien unless the property subject thereto has been sold in manner provided by law for payment of said tax.

YES ___ NO ___

17 CITY CHARTERS. Assembly Constitutional Amendment 31. Amends Section 8, Article XI, of Constitution. Requires board of freeholders, within one year after their election, to prepare a proposed city charter, and if city's population exceeds 50,000 requires copies thereof be printed and mailed each elector. Requires petition for submission of charter amendment be filed with legislative body of city at least sixty days before general election next preceding a regular session of Legislature. Permits charter provision for division of city into boroughs or districts; eliminates provision that borough's powers be not changed without consent of electors of borough.

YES ___ NO ___

18 AUTHORIZING BOARD OF SUPERVISORS TO DRAFT COUNTY CHARTER. Assembly Constitutional Amendment 23. Adds Section 7½ to Article XI of Constitution. Confers upon board of supervisors of any county same power to draft a proposed charter for said county as is conferred upon board of freeholders elected under Section 7½ of Article XI; declares provisions of latter section shall otherwise apply in every respect to such proposed charter.

YES ___ NO ___

[illegible] for division of city into boroughs or districts; eliminates provision that borough's powers be not changed without consent of electors of borough.

YES ___ NO ___

AUTHORIZING BOARD OF SUPERVISORS TO DRAFT

SPECIAL MUNICIPAL ELECTION

CHARTER AMENDMENTS TO BE VOTED ON BY QUALIFIED ELECTORS OF THE CITY OF LOS ANGELES:

1-A Shall proposed Charter Amendment No. 1-A, fixing the term of office of members of City Council as four years, be ratified? YES ___ NO ___

2-A Shall proposed Charter Amendment No. 2-A, to amend Sec. 83 of the Charter of Los Angeles by adding thereto the words "or as otherwise provided," in order that the provisions of said section shall not conflict with other sections of the charter, be ratified? YES ___ NO ___

3-A Shall proposed Charter Amendment No. 3-A, providing that no maximum age limit shall be fixed for applicants for examination or employment in the classified civil service, excepting police and fire departments, be ratified? YES ___ NO ___

5-A Shall proposed Charter Amendment No. 5-A, authorizing Board of Harbor Commissioners to fix rates to be charged for harbor facilities without approval by ordinance and to make rules and regulations affecting the Harbor Department, be ratified? YES ___ NO ___

6-A Shall proposed Charter Amendment No. 6-A, authorizing Board of Harbor Commissioners to make leases of harbor property for 40 years without approval by ordinance, be ratified? YES ___ NO ___

7-A Shall proposed Charter Amendment No. 7-A, authorizing Board of Water and Power Commissioners to fix rates to be charged for water and electric energy without approval by ordinance, be ratified? YES ___ NO ___

8-A Shall proposed Charter Amendment No. 8-A, to amend Sec. 222 of the Charter of Los Angeles by adding thereto a provision to authorize the Board of Water and Power Commissioners to adopt special budgets and make special appropriations, and to incur and pay financial obligations thereunder, in order to make extensions and betterments of the Water Works and Electric Works, from the revenues therefrom, be ratified? YES ___ NO ___

9-A Shall proposed Charter Amendment No. 9-A, to amend Section 223 of the Charter of Los Angeles by adding thereto a provision to expressly authorize the Board of Water and Power Commissioners to apply moneys in revenue funds pertaining to municipal works, to purposes permitted by Sec. 221 of the Charter, in such order and such amounts, as in the exercise of its discretion it shall determine, except as in said Section 223 now provided; and to expressly provide that balances remaining unexpended and sums receivable into said funds shall be available for use in succeeding fiscal years, be ratified? YES ___ NO ___

10-A Shall proposed Charter Amendment No. 10-A, to amend Section 224 of the Charter of Los Angeles to provide that the power of the Board of Water and Power Commissioners to borrow money under such procedure as may be prescribed by ordinance, and upon terms and conditions approved by the Council and the Mayor, may be exercised upon determining that the demands for service made upon, and the financial condition of, the works with respect to which it proposes to exercise such power, justifies it in so doing, and to provide that the whole amount of any such indebtedness may be repaid in not to exceed twelve years, and that the total indebtedness to be incurred under said section shall not exceed fifty percent of the gross operating revenue from such works during the preceding fiscal year, be ratified? YES ___ NO ___

11-A Shall proposed Charter Amendment No. 11-A, to add a new section to be numbered Sec. 224½ to the Charter of Los Angeles to provide that the Board of Water and Power Commissioners may borrow money from the Federal Government, or State Government, or any duly authorized agency created by either, to defray expenses of construction work in the Department of Water and Power; that said indebtedness shall be repaid from revenue in not more than twenty annual payments, the first payments of principal and interest to be made during the year in which such indebtedness is incurred, and that the total indebtedness to be incurred under said section shall not exceed fifty percent of the gross operating revenue from such works during the preceding fiscal year, be ratified? YES ___ NO ___

WARNER ABBEY, Liberty

M. SHELTON, Prohibition

O. OXENDINE, Prohibition

LURA HYDEN BOLEYN, Prohibition

End of group.

Top of group.

WALTER E. OWEN, Liberty

GEORGE D. PATRICK, Liberty

WARNER ABBEY, Liberty

CLAIR P. CATTERLIN, Liberty

JAMES V. LIPPITT, Liberty

EMILY BLANTON, Liberty

A. R. BLANTON, Liberty

ROY E. SILVERS, Liberty

GRACE M. BAKER, Liberty

PETER C. CHRISTENSEN, Liberty

OLIVER C. CAMPBELLE, Liberty

SARAH E. DYER, Liberty

VAN DYKE TODD, Liberty

HALBERT E. HIGBEE, Liberty

LE ROY E. ENOS, Liberty

H. V. HANEY, Liberty

EDMOND B. CLARK, Liberty

GEORGE FELSING, Liberty

J. W. WEMPLE, Liberty

ISLA I. BATES, Liberty

PAUL HOLMES, Liberty

GEORGE HOUSE, Liberty

End of group.

A cross (X) stamped in this square ☛ ☐ shall be counted for each name of the group to the left.

ANDRAE B. HORDSHOG
of
CALIFORNIA
was the Candidate for Vice President of the United States duly nominated unanimously by delegates in National Convention held in Monte Ne, Arkansas, August 29, 1921, and again nominated unanimously at the Convention of six Third-Party groups held in Kansas City, Missouri, July 4, 1922; both times by the LIBERTY PARTY.

HERBERT KERRIGAN, Republican

ROBERT B. WHITAKER, Socialist

End of group.

Top of group.

CARLOS S. STANLEY, Republican

MRS. J. I. ELIZABETH LAWLESS, Republican

HARRY A. MILTON, Republican

HERBERT KERRIGAN, Republican

MRS. RUTH COMFORT MITCHELL YOUNG, Republican

RICHARD M. TOBIN, Republican

HUGH McNULTY, Republican

DR. JOHN F. SLAVICH, Republican

MRS. MAX SLOSS, Republican

GEORGE C. PARDEE, Republican

GEORGE W. CLYDE, Republican

ROBERT FREEMAN, Republican

EDWARD H. AHLSWEDE, Republican

DR. RALPH E. SMITH, Republican

HARRY J. TRIMAINE, Republican

EDWIN A. MESERVE, Republican

ALFRED L. BARTLETT, Republican

CORA H. SHAW, Republican

JAMES W. HANBERY, Republican

DR. E. P. CLARKE, Republican

JOHN F. FORWARD, JR., Republican

HELEN MATTEWSON LAUGHLIN, Republican

End of group.

A cross (X) stamped in this square ☛ ☐ shall be counted for each name of the group to the left.

MRS. MARY MARSHALL WILEY, Democrat

End of group

WILBUR C. CURTIS
Judge of the Municipal Court

CHARLES P. JOHNSON
City Prosecutor of Los Angeles

ISAAC PACHT
Judge of the Superior Court

Judge of the Superior Court
Office No. Thirteen — Vote for One

WILBUR C. CURTIS
Judge of the Municipal Court

CLEMENT L. SHINN
Judge of the Superior Court

Judge of the Superior Court
Office No. Fourteen — Vote for One

JOE RYAN
Attorney at Law

LEWIS HOWELL SMITH
Judge of the Superior Court

Judge of the Superior Court
Office No. Eighteen — Vote for One

JAMES H. POPE
Judge of the Municipal Court

THOMAS P. WHITE
Judge of the Superior Court

Judge of the Superior Court
Office No. Twenty-Two — Vote for One

DANIEL BEECHER

PARKER WOOD
Judge of the Municipal Court

IF YOU BELIEVE IN YOUR RIGHT TO ELECT YOUR OWN JUDGE—
VOTE NO ON THE RECALL!
Faithfully yours,
JOHN L. FLEMING

[illegible] lawyers have written me that they are opposed to my recall.

A Judge charged with misconduct can be removed by impeachment without cost to the public. Whereas THIS RECALL ELECTION WILL COST YOU NOT LESS THAN $50,000!

If you encourage this recall, you will destroy the independence of your Judiciary, because every Judge will be continually confronted with the threat of recall every time he decides a case against any powerful political group or special interest.

IF YOU BELIEVE IN JUSTICE AND FAIR DEALING—
IF YOU BELIEVE IN AN INDEPENDENT JUDICIARY—
IF YOU BELIEVE IN SAVING THE TAXPAYERS' MONEY—
IF YOU BELIEVE IN YOUR RIGHT TO ELECT YOUR OWN JUDGE—
VOTE NO ON THE RECALL!
Faithfully yours,
JOHN L. FLEMING.

Shall WALTER GUERIN be recalled from the office of Judge of the Superior Court of Los Angeles County?

YES

NO

Candidates to succeed WALTER GUERIN in case he be removed from the office of Judge of the Superior Court of Los Angeles County:

Judge of the Superior Court — Vote for One

WILLIAM J. CLARK
Lawyer

JOHN BEARDSLEY
Lawyer

CHARLES L. BOGUE
Judge of the Municipal Court

THE GROUNDS ON WHICH SAID REMOVAL IS SOUGHT ARE:

(1) That the actions of said WALTER GUERIN as Judge of said Superior Court, in connection with receivership matters pending in said Court, constitute a violation of long and well-established principles governing judicial conduct, and directly involve the interests of the public which looks to the Court for the unprejudiced determination of the rights of litigants.

(2) That said WALTER GUERIN has conducted himself in his judicial office in a manner prejudicial to the proper administration of justice, and that his practices have, of necessity, interfered with the proper performance of his duties as Judge, and that his conduct has cast reflection upon the integrity of the judiciary at large and engendered the belief that the rights of the people do not receive fearless and impartial consideration in the courts of justice.

(3) That by his conduct said WALTER GUERIN has so impaired the confidence of the public in his fitness for the high office of Judge of the Superior Court, and has so seriously affected the good repute of the entire Court that, in the interest of fair, impartial and disinterested administration of justice, he should be removed and his successor elected.

REASONS GIVEN BY JUDGE WALTER GUERIN OF THE LOS ANGELES COUNTY SUPERIOR COURT WHY HE SHOULD NOT BE RECALLED.

I have been a Superior Court Judge for the past nine years and previously, since 1903, have resided and practiced law here. For ten years I was City Attorney of Pomona. In all my public and private life my reputation has never before been attacked. Good citizenship and public service have been my guiding motives, as my record at bench and bar and in the army during the Spanish-American and World wars will attest.

The movement to recall me was brought about by politicians who failed to dominate my acts. The State Bar of California has not asked my recall. The membership of the Los Angeles Bar has never been afforded an opportunity to vote on the question. Instead, a small, politically-minded and self-seeking committee has presumed to speak for the entire membership.

The inferences contained in the vague statement demanding my recall are false and untrue. What well-established principles have I violated? Wherein has my conduct been prejudicial? How has confidence in the courts been impaired? They do not tell you how or where.

THIS FIGHT PRESENTS A MENACE TO THE PEOPLE. WILL YOU HAVE AN INDEPENDENT AND UNCONTROLLED JUDICIARY OR ONE THAT WILL BE DOMINATED BY THE THREAT OF RECALL AT THE HANDS OF SMALL GROUPS AND FACTIONS? IF I AM RECALLED THIS WEAPON WILL HANG OVER THE HEAD OF EVERY JUDGE ON THE BENCH AND OBTRUCT AND INTERFERE WITH THE FAIR AND HONEST ADMINISTRATION OF JUSTICE.

I am not responsible to the Committee of the Los Angeles Bar Association but to the People. Of you I ask fair play. Preserve to yourselves an independent and unbiased judiciary!

VOTE "NO" ON THE RECALL!

WALTER GUERIN, Judge.

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IN YOUR RIGHT TO ELECT
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ge this recall, you will destroy the
your Judiciary, because every
continually confronted with the
every time he decides a case against
olitical group or special interest.
IEVE IN JUSTICE AND FAIR
[illegible]
IEVE IN SAVING THE TAXPAY-
IEVE IN YOUR RIGHT TO ELECT
OBE
THE RECALL!
Faithfully yours,
JOHN L. FLEMING

ER GUERIN be re-office of Judge of the of Los Angeles	YES	
	NO	

succeed WALTER GUERIN in
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of Los Angeles County:

Superior Court	Vote for One
CLARK	
SLEY	
BOGUE Municipal Court	

S ON WHICH SAID REMOVAL
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moved and his successor elected.

N BY JUDGE WALTER GUERIN
ANGELES COUNTY SUPERIOR
WHY HE SHOULD NOT
BE RECALLED.

Superior Court Judge for the past
previously, since 1906, have resided
here. For ten years I was City
nona. In all my public and private
has never before been attacked.
and public service have been my
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biased judiciary!
N THE RECALL!
WALTER GUERIN, Judge.

DAILEY S. STAFFORD,
Judge of the Superior Court.

[illegible] any suggestion, by the District Attorney of Los Angeles County, ALL THREE FOUND THAT NO WRONG HAD BEEN COMMITTED BY ME. During twenty years as a public officer, interrupted only by my war service, MY PERSONAL AND JUDICIAL INTEGRITY NEVER HAS BEEN QUESTIONED. The common man and woman, without regard to race, creed or color, has ever received a fair deal in my court. Powerful, privileged groups HAVE NOT BEEN ABLE TO CONTROL ME. THE PEOPLE HAVE STAMPED THEIR APPROVAL OF ME AS A JUDGE IN THREE ELECTIONS.

To keep me on the bench Vote "NO" on this recall.

DAILEY S. STAFFORD,
Judge of the Superior Court.

LEGISLATIVE EXPENSES. Senate Constitutional Amendment 17. Amends Section 23a, Article IV, of Constitution. Increases limit upon Legislature's total daily expenses for its officers, employees and attaches, at regular session from $300 for each House to $400 for Senate and $150 for Assembly, exclusive of salaries of Secretary of Senate and Chief Clerk of Assembly and salaries and expenses of interim committees; and at special session from aggregate of $200 for both Houses to $150 for each House, exclusive of salaries of such Secretary and Chief Clerk.

7 YES / NO

INITIATIVE AND REFERENDUM. Senate Constitutional Amendment 3. Amends Section 1 of Article IV of Constitution. Requires proponents of any initiative or referendum petition, before circulating same for signatures, submit draft thereof to attorney general with written request that he prepare therefor a title and summary in not to exceed one hundred words, such request to be preserved by him until after next election. Reserves to such proponents the right to file original petition; requires county clerk and registrar of voters disregard any section thereof or supplement thereto not presented by such proponents or by persons authorized by them in writing.

8 YES / NO

SCHOOL FUNDS. INCOME, SALES TAX. Initiative constitutional amendment. Provides for income tax on individuals, estates and trusts, and selective sales tax. Provides for state public school equalization fund, requiring therefor annual minimum appropriation of forty dollars per elementary pupil and seventy dollars per high school pupil. Permits county and district school taxes. Requires school district taxes to meet district budget. Requires district apply to teachers' salaries seventy-five per cent of state moneys received for elementary schools and seventy per cent of that received for secondary schools, unless it expends therefor seventy per cent of maintenance budget less auxiliary expenses.

9 YES / NO

AUTHORIZING CITY OF ESCONDIDO TO HOLD STOCK IN MUTUAL WATER COMPANY. Assembly Constitutional Amendment 14. Adds Section 31b to Article IV of Constitution. Authorizes City of Escondido, California, for purpose of supplying water for public or municipal purposes or for use of its inhabitants, to acquire and hold shares of capital stock of mutual water company or corporation; declares such holding shall entitle city to all rights, powers and privileges, and subject it to obligations and liabilities, given or imposed by law to or upon other holders of stock in said corporation.

10 YES / NO

TIDELAND GRANT TO CITY OF HUNTINGTON BEACH. Initiative Constitutional Amendment. Adds Section Four to Article Fifteen of Constitution. Grants to City of Huntington Beach tide and submerged lands situated within present boundaries of said city. Empowers city to use such lands for promotion and accommodation of recreation, commerce, navigation, harbor, fishery, production of minerals, oil, gas and other hydrocarbons. Empowers City to lease said lands for such purposes. Provides fifty per cent of income from such leases be paid into State treasury to credit of general fund. Confirms previous leases and agreements to lease. Reserves to people right to fish.

11 YES / NO

[illegible] penses of interim committees; and at special session from aggregate of $200 for both Houses to $150 for each House, exclusive of salaries of such Secretary and Chief Clerk. [illegible] wife does not own property of the value of $5000 or more. — NO

[illegible] 7½ of Article XI; declares provisions of latter section shall otherwise apply in every respect to such proposed charter. — NO

[illegible] provision that borough's powers be not changed without consent of electors of borough. — NO

AUTHORIZING BOARD OF SUPERVISORS TO DRAFT COUNTY CHARTER. Assembly Constitutional Amendment 23. Adds Section 7¼ to Article XI of Constitution. Confers upon board of supervisors of any county same power to draft a proposed charter for said county as is conferred upon board of freeholders elected under Section 7½ of Article XI; declares provisions of latter section shall otherwise apply in every respect to such proposed charter.

18 YES / NO

CITY CHARTER PROVISIONS FOR NOMINATION AND ELECTION OF OFFICERS. Senate Constitutional Amendment 9. Amends Section 8½ of Article XI of Constitution. Adds provision permitting city or city and county charters to provide any mode for the nomination and or election of officers of such city or city and county, and to adopt and provide for any system of proportional representation on the legislative body thereof, also the manner of voting under such system.

19 YES / NO

COUNTY CHARTER PROVISIONS FOR NOMINATION AND ELECTION OF OFFICERS. Senate Constitutional Amendment 8. Amends Section 7½ of Article XI of Constitution. Adds provision permitting county charters to provide any other mode in place of that provided by general laws for the nomination and/or election of elective officers of counties, townships, road districts and highway construction divisions therein, and to adopt and provide for any system of proportional representation on the legislative or governing body of counties, also the manner of voting under such system.

20 YES / NO

any duly authorized agency created by either, to defray expenses of construction work in the Department of Water and Power; that said indebtedness shall be repaid from revenue in not more than twenty annual payments, the first payments of principal not to be made during [illegible] repaid in not to exceed twelve years, and that the total indebtedness to be incurred under said section shall not exceed fifty percent of the gross operating revenue from such works during the preceding fiscal year, be ratified? — NO

11-A Shall proposed Charter Amendment No. 11-A, to add a new section to be numbered Sec. 224½ to the Charter of Los Angeles to provide that the Board of Water and Power Commissioners may borrow money from the Federal Government, or State Government, or any duly authorized agency created by either, to defray expenses of construction work in the Department of Water and Power; that said indebtedness shall be repaid from revenue in not more than twenty annual payments, but that no payments of principal need be made during the first three years; and to authorize said board to make contracts for expenditure for or on account of extensions and improvements of the works of said Department, payments under said contracts to be made out of the revenue fund pertaining to the municipal works for or on account of which such indebtedness is created, and to be made within twelve years, be ratified? — YES / NO

12-A Shall proposed Charter Amendment No. 12-A, relative to recall of public officers, be ratified? — YES / NO

13-A Shall proposed Charter Amendment No. 13-A, requiring elective officers of the City to have been residents of the City of Los Angeles for two years prior to nomination or election and members of City Council to be residents of their respective districts for two years, be ratified? — YES / NO

14-A Shall proposed Charter Amendment No. 14-A, fixing the filing fee for candidates to elective offices in an amount equal to 2% of one year's salary, except fee for office of Member of the Board of Education be fixed at $12.00, be ratified? — YES / NO

15-A Shall proposed Charter Amendment No. 15-A, providing that nominating petitions may not be amended within 40 days of primary nominating election, be ratified? — YES / NO

16-A Shall proposed Charter Amendment No. 16-A, authorizing the letting of contracts for public work and purchase of materials and supplies for public use to persons or concerns manufacturing same in the State of California, if prices do not exceed by more than 5% prices quoted by persons or concerns manufacturing same elsewhere, be ratified? — YES / NO

17-A Shall proposed Charter Amendment No. 17-A, amending Section 390, which requires all contracts for three years or more to be approved by ordinance, by excepting therefrom the provisions of Sections 224 and 224½ and permits and leases granted by the Harbor Department relating to real property, be ratified? — YES / NO

18-A Shall proposed Charter Amendment No. 18-A, exempting purchases by Harbor, Library and Water and Power Department from provisions of Section 391 and the control of purchasing agent, be ratified? — YES / NO

19-A Shall proposed Charter Amendment No. 19-A, extending right to organize boroughs to any territory of the City, be ratified? — YES / NO

20-A Shall proposed Charter Amendment No. 20-A, providing that the State prevailing wage law of 1931 shall apply to the City of Los Angeles, be ratified? — YES / NO

21-A Shall proposed Charter Amendment No. 21-A, transferring the powers and duties of the City Prosecutor to the City Attorney and abolishing the office of City Prosecutor, be ratified? — YES / NO

in 1944—we had a meeting on Sunday, a special session of the California Legislature. He was standing outside the door, and I said, "Frank, can you legally certify to these presidential electors that they have been actually elected at the November ballot, when their names are not on the ballot?" He says, "No, I can't." I said, "Will you go in and testify for me?" He said, "I will." I said, "The delegates' names are not on the ballot." I said, "Can you certify the delegates to the convention in the June primary, presidential primary, by letter, with the great seal of California, that they have been duly elected, when their names were not on the ballot?"

He says, "No, I can't."

That is our own secretary of state, who is very friendly to this cause. In fact, he was so friendly to the cause that he was the one who invited me and arranged with the National Association of Secretaries of State for me to go to Providence, R. I., last June. So our secretary of state is very warm on this subject.

He told me plainly that he could not legally certify. But he does. He just does it because the law book says that he must certify it. It is all ridiculous.

Anyway, those two outstanding things were the ones that I wanted to show you, the difference between the old form and the new form.

Now, then, we have the official consolidated primary election, and that is this. It is a square within a square.

The CHAIRMAN. Do you want to put that in the record?

Mr. NORDSKOG. Yes.

(The material referred to is herewith inserted.)

Mr. NORDSKOG. It says "Candidates preferring Franklin D. Roosevelt." And it says: "A cross stamped in this square shall be counted as a vote for all candidates preferring Franklin D. Roosevelt." The delegates' names are not on the ballot. They are printed on a slip not properly designated or dated at all. And the Election Code of California, section 3880 of the Election Code of California—I have it right here—I have it on one of the others here. They have an official consolidated primary election ballot, and that is not the true designation. It should say "Official presidential primary election ballot."

This is one that you can use for the exhibit if you wish, Mr. Chairman. I have so many of these, and they are all marked up with my own notations, that it wouldn't be so well to put them in the record, because nobody could make it out except myself. You see, I have got marks all over this. Because I took all of these matters up with every legal representative in California, the city and the county and the State and the legislators, the senators, the secretary of state, and the Governor, and we just can't get them to do anything. They say, "That is the law. What are you going to do about it?" And at the special session in 1944, they only stayed there 4 days, and then they had to hurry home.

Now, Mr. Chairman, I am going to again thank you, more deeply than I can ever voice with my vocal cords, because this is a very deep sentiment with me. I have worked at it now since 1929, and you, precious soul, have kept faith with me. You have kept faith with the people. And when I got the letter to come back here, we had planned on something else for the summer, but the minute we got the

letter we didn't take 10 minutes to decide. Mrs. Nordskog said, "Well, we will just take airplane tickets and go back there right away."

But as I see it, with the sort of a conflagration in the public mind of resentment against what they have seen—I read your remarks in the previous testimony, and I think you have got about the same opinion of those national conventions that I have, that they are not what the American people want. When they saw it, they said, "No, we don't want it."

But when we look back to the efforts of George Washington and Thomas Jefferson and John Adams and the rest of the early patriots, they did the very best job they could. They didn't realize that some of those changes would have to be made perhaps very soon after they died. But, as they said in the Declaration of Independence, institutions that are long established it is not very easy to change, and so on. But when abuses become so great and so continued that it becomes a necessity, then is the time the public must act. And I feel that you have undertaken this, Mr. Chairman, at a time, now, when the people are more ready for this progressive legislation than they have ever been since 1820. I think that is true. Because I know, myself, that when I gave the talks across the country in 1929, 1930, 1931, 1932, and and clear down to 1934, when Mr. Norris was working on this, I couldn't get the reaction that I can now. Most all these clubs just say, "Yes, we want this thing" immediately. They just rush to it like they do for hotdogs. They want to sign the petitions, because they want a part to play in it.

So I think if you can convey to your Judiciary Committee and in turn convey to the Members of the United States Senate that there is 1 person who has taken time with his own money to go across the Nation not once but several times, and just recently this past year, and that I have had the most favorable reaction, the most encouraging reaction, I have ever had in my life, and they can rest assured that when they shall have adopted this measure in both Houses, the people, at conventions in all of the 48 States, will hasten to ratify it, that should satisfy them. And I believe that that is true.

Again I say I can't thank you in words. I will just have to live a good life and prove to you that I will be a good citizen because you have treated me so fine.

And may I say to you, Mr. Smithey, too, that I thank you for your courtesy. You have been very fine to Mrs. Nordskog and me, and I am sure she shares my sentiments.

Mrs. NORDSKOG. Yes; I do.

The CHAIRMAN. Are there any questions?

Mrs. NORDSKOG. If there should be any questions, I have taken a great deal of time, but I am here from Los Angeles and I have nothing else to do.

The CHAIRMAN. I do not think there will be any other questions, because there are two other witnesses here.

Mr. SMITHEY. Senator, this is former Congressman Lea of California.

The CHAIRMAN. We surely would like to have your testimony.

STATEMENT OF HON. CLARENCE LEA, WASHINGTON, D. C.

Mr. LEA. My Washington address is 110 Maryland Avenue. I am most of the time in Washington.

I realize it is getting late, and there is another witness to follow. If it were satisfactory to you, I would prepare my speech, typewritten complete, and hand it in Tuesday, so that you could have it.

The CHAIRMAN. You can have until Wednesday.

Mr. LEA. I would like to be a little more definite in checking up on this. However, if you don't mind, I will read a few remarks.

Mr. SMITHEY. Excuse me, Congressman. You had indicated earlier that you wanted your remarks included as if they had been read. Is that your request?

Mr. LEA. That would be the idea; yes.

Mr. SMITHEY. May that be so ordered, Mr. Chairman?

The CHAIRMAN. Surely.

Mr. LEA. Mr. Chairman, we have a Nation of 160 million people, and over 60 million of them voted at the recent election, but none of those voters were permitted to vote directly for the President of the United States. They could only vote for an elector, in the hope that the one they voted for would have the privilege of voting for President as an elector. And if the elector for whom they voted fails to receive a plurality of a State vote, their vote was not considered at all in the computation that ultimately determined who would be President.

In other words, all minority voters in every State in the country are denied to have any credit in the electoral college for their votes. The number that are denied in every State amounts to millions, and it amounts to over a hundred million in the whole history of our country.

The method of electing the President permits no division of the sentiment of the people of the State. The divided sentiment of the people of a State has no reflection in the electoral vote. It is only that for the plurality candidate that has any effect or benefit whatever for these people to vote. They are invited to come to the polls and vote, but their votes are not counted in the ultimate count unless they happen to vote for the plurality candidate.

In my judgment, there can never be a just system of electing the President unless there is a division of the State vote to conform to the will of the people of that State. Under the Constitution, the people of the State go to the polls and vote. They represent the State.—what disposal of the electoral vote of that State shall be—but nothing else. That is what they vote on. Now, I know of no sane reason why the vote of every man who votes in the State should not be considered in the ultimate count that determines who is going to be President.

So I think the most fundamental outstanding thing here is that every citizen should have a right to vote directly for President, and every citizen should have a right to have his vote computed in the final count that determines the result.

I object to the present system also because of the method of voting when an election is thrown into Congress. As you know, if an elec-

tion is thrown into Congress, every State has but one vote. A majority of the electors in that State control that vote. If they should happen to disagree, that State has no vote. And the smallest State is equal with the greatest State in the country. It is possible that an election of the President could occur in the House of Representatives, where he was elected by the Representatives who represented only 15 percent of the people of the United States. That is a possibility.

So I have that fundamental belief.

On account of Mr. Wilmerding's statement here, I think perhaps I ought to read one section of this statement I have prepared for today:

The Constitution denies the people of the country the privilege of voting directly for President. The President must be elected by the votes of presidential electors who are selected by each State in such manner as the legislature thereof may provide. It is within the legal right of the legislature of each State to select presidential electors on its own responsibility if it cares to do so. These presidential electors are an intermediate group between the people and the President, charged with the responsibility of electing the President for the people of the United States. They are holders of proxies from each State. We elect our President by proxies.

Imagine this, the greatest popular government in the world, having an intermediate agency elect the President for us instead of letting the people of the United States go to the polls to select their President.

And as we all know, proxy votes are two general classes. We have the general proxy, which gives the holder an unlimited right to cast his vote according to his own discretion. The other class of proxies are limited and require their holders to vote according to the instructions given by those who granted the proxy.

Under the Constitution, the presidential elector holds a general proxy, under which he has a legal right to vote for any person he chooses. However, in practice, the presidential elector holds a limited proxy. He makes no pretense of using his own judgment as to who shall be President. He acts as a mere automaton, to vote according to his instructions as given to him when he was nominated as a presidential elector. He holds a limited proxy to cast a party vote, representing those who voted for him, and with no authority or purpose to represent those who voted against him.

In other words, the proxy is representative only of the people of the State who voted for him and gives no representation to those who voted against him, whether it be a majority or a minority of the people of the State. A presidential elector, as a proxy holder, cannot serve two masters, cannot vote for his supporters and for his opponents. The result is that in no contested presidential election in 100 years has any presidential elector ever cast a vote that accurately reflected the will of the people of his State. Under the present plan, there never has been and there never can be a presidential elector who can cast a vote that gives any representation in the electoral college to the minority voters of a State. The fact justifies us in the conclusion that the presidential elector is a nuisance and a needless encumbrance upon our electoral system. He makes it impossible to have a fair or just system of election.

I will read a little further.

It has been suggested that we do away with the State-unit vote and substitute a system of selecting presidential electors by districts in each State. Such a plan is discredited by the past history of our country. It would retain the worst features of the present method.

First, it would preserve the presidential elector who never has been and never can cast a vote that would accurately reflect the will of the people of the district for which he is selected.

Second, it would continue the present provision which denies the right of the people to vote directly for the President.

Third, it would preserve the unit vote in a form that would still disfranchise all minority voters. It would deny any representation to minority voters within

the district that elected him, and therefore disfranchise minority voters in every district in the Nation.

Fourth, it would set up a system of districts which would tend to revive the gerrymandering practices that have so discredited many legislatures in the past by their brutal exercise of political power to prevent minority parties from getting any credit for their votes.

Fifth, the district system of election is merely an attempt to palliate, but provides no real constructive remedy for the situation that is sought to be remedied.

Sixth, the great inequality between the populations of different districts would, under district selection, provide the impossible inequalities of the rights of the people within the State. The district selection of a presidential elector is condemned not only by the gerrymandering practices of districts that have heretofore prevailed but also by the unequal population of the districts, whether or not gerrymandering has been the motive therefor.

The great inequality of the sizes of the districts was recognized by the President in his message to Congress, January 9, 1951, in reference to the reapportionment under the recent census.

I will not read that, because the substance of it was that we have congressional districts varying in population from less than 200,000 to 900,000. There is great inequality in the vote. If you give a vote to each district, there is a great inequality in the vote representing the different sections of the country.

Now, I will call your attention to a vote illustrating what would happen under the district system. In the hearing in the House, Mr. Donnelly, who made a study of this thing, made this statement.

The CHAIRMAN. What is the date of that hearing?

Mr. LEA. That was a hearing in the House on April 20, 1951.

The CHAIRMAN. Before the Judiciary Committee?

Mr. LEA. Yes.

He said:

Is the district system an improvement? Certain it is that the present general ticket system of electing presidential electors is both inaccurate and unfair.

In the 1948 election, the Republicans received no electoral vote from the South. It has been suggested that the district system will furnish the necessary parties with reasonable representation. This is easily tested. Assuming that the Members elected in the House of Representatives in 1948 were presidential electors, how many Republican electors would there have been in the South under the amendment proposed by Mr. Coudert, House Joint Resolution 11? Just 2, from the First and Second Districts of Tennessee.

The result so closely approximates the present results as to make the proposed change immaterial. Yet on the principle of Mr. Gossett's House Joint Resolution 19, and considering only whole votes, the Republican Party would have received 31 electoral votes under the present system, while the Republican Party got 2 under the district system.

The reason for that is easy to understand. If we had an election where every State that voted gave 1 candidate a 2 percent plurality, 1 candidate would have all the electoral votes; while he had only 51 percent of the vote and the other had 49, the 51-percent man would have every electoral vote in the country.

That shows why the district system cannot be accepted. In the local area there would be a greater variation of the vote, of course, than now. Now it is as a unit. And if you had the district system, you would have divisions. However, in the aggregate, you probably wouldn't have as many votes as you would under the present system.

In fact, President Harrison suggested that one of the reasons for going to the general ticket was to avoid the evils of the district system. And I think it is warranted by the facts.

Now, I had a lot more to say, but that is all for now.

The CHAIRMAN. How much time would you need to file your statement?

Mr. LEA. How much time? I can give it to you Tuesday.

The CHAIRMAN. Wednesday will be all right. We do not want to hurry you.

Mr. LEA. All right. Wednesday will be a little more comfortable time for me to supply it.

The CHAIRMAN. You have his address here, Mr. Smithey?

Mr. SMITHEY. Yes. I have his Washington address.

Mr. LEA. Thank you. I am very much interested in this thing.

The CHAIRMAN. I think we ought to set up a committee of some kind whereby I can utilize the services of people who are interested. I do not know just how I can do it yet.

Mr. LEA. I want to do all I can to help you, because I think it is a great reform.

(The statement referred to is as follows:)

Mr. Chairman, my name is Clarence F. Lea. My Washington address is 110 Maryland Avenue NE.

We are now a Nation of over 160 million people. Over 60 million went to the polls last November and cast their ballots in the presidential election. No one of that 60 million had the privilege of voting directly for President. The Constitution, by requiring that the President must be elected by presidential electors, denies every citizen a direct vote for President.

The American voter has a right to take a part in the selection of only four officers of the Federal Government. He has the right to vote directly for a Representative in Congress, and he has a right to vote directly for a United States Senator. By grant of the State legislatures, the voter has a right to vote for a presidential elector who, if elected, may vote for the election of the candidate he favors. However, if a citizen votes for a presidential elector who does not receive a plurality of the State vote, his vote is given no credit in the ultimate count at Washington which determines who will be President. The ultimate determination of who will be President is when the votes from all the States are tabulated in Congress at Washington. Every State is assured in advance as to what its voting power shall be in selecting a President. It is assigned electoral votes in proportion to its population, and not in proportion to the number of its voters. The voters of each State, regardless of their number, represent the people of that State. They represent the State in voting for themselves and also voting for the nonvoter. Whether 20 or 40 percent of the people of any State vote is a question left to the voters of that State; but the total population of the State determines its relative voting power and not the number who vote. So far as the voters of the State are given any voting privilege it is to determine how the electoral vote of that State shall be disposed of in the electoral college. Under the unit voting system the whole electoral vote of each State is determined by a plurality vote of the voters of that State whether or not that plurality be a majority.

A plurality candidate is the one who receives the highest vote of the candidates for an office whether or not he receives a majority. A majority candidate, of course, is the one who receives more than half of the total vote for such an office.

So under this crude system of selecting electors the whole vote of the State goes to the plurality candidate regardless of whether he has a majority vote of the State.

Then when ultimately credit is given at Washington to the State vote, all of the electoral votes of the State go to the plurality candidate. Candidates of minority parties, whether they be Democrats, Republicans, or third party, are given no credit whatever.

The plurality candidate is given credit as if every citizen in the State voted for him.

The electoral vote of the State assigned to it equally on account of its population, plurality, and minority voters alike, is credited in the count at Washington as if every voter in the State had voted for the plurality candidate.

In every election for President it is practically certain that the plurality candidate for each 100 votes cast in his favor will receive a credit, say from 140 to 210 votes. In fact, the smaller the vote the plurality candidate receives, the larger is the false credit he secures in the electoral college.

Such a plan of election is unworthy of this great Nation. It is a reflection on the lack of initiative and alertness of Congress that it has given the people of the Nation no opportunity to eliminate the present injustice and unreliability of its electoral system. The presidential election is a national election. It cannot be fairly decided except by a system of crediting votes that recognizes and gives proper weight to the vote of every citizen in the Nation. There is just as much reason to require that every vote cast shall be credited as cast for President, as there is for a Senator, or other public officer.

Under the present plan all credit may be given to a plurality candidate, Democrat or Republican, or third party. In one State the vote may be only 300,000. In another State all credit will be denied to a minority candidate in the same party where its candidate received 2 million votes.

In other words, the fundamental defect of our electoral system is that in the ultimate count that determines the election no representation given to minority voters of any State; and even though the aggregate of minority voters exceeds the total number of plurality votes.

John Jones, Democrat or Republican, can vote for Representative in Congress and for Senator, but not for President of the United States. Without any intellectual or moral basis for discrimination, the minority voters are in effect disfranchised. They are invited to come to the polls and vote but their votes are not credited after they are cast. In fact, our system is even more vicious and defective than that. All minority votes are finally credited as if cast for the plurality candidate in the State.

THE ELECTORAL VOTE USEFUL

The electoral vote, as distinguished from the presidential elector, is an important and useful feature of the Constitution. It is provided as a just measure of the voting power of each State in the election of a President. The States are granted electoral votes primarily in proportion to population. That is a just and normal standard of representative government. It is the usual method in our State governments.

It assures each State its just relative right to participate in the Federal Government beyond the power of any other State to add or detract. In the main, it leaves to each State the power to determine who of its people may vote.

The unfortunate, if not appalling, defect of the Constitution is its failure to provide for a just division of the States' electoral vote so that they shall faithfully reflect the divided wills of their own voters.

Fortunately the remedy for this defect is plain and simple. It requires only a provision for the elimination of the presidential elector and for dividing the State electoral votes in exact proportion to the way its people vote. When that is done, we will have a fair reflection of the will of each State, and combined, a just reflection of the will of every State.

SELECTION OF ELECTORS BY DISTRICTS

It has been suggested that we do away with the State unit vote and substitute a system of selecting presidential electors by district units in each Sate.

Such a plan is discredited by our past history. It is only a crude substitute proposed to give better recognition to minority votes and the divided opinion of State voters. However, it is ineffective for that purpose. It would afford, of course, a greater division in some States but in the aggregate it would give no reliable representation to minority voters. It would retain the worst features of the present method.

First, it would continue the present provision which denies the people a right to vote directly for President.

Second, it would preserve the presidential elector who never has and never can cast a vote that would accurately reflect the will of the people of the district from which he is elected.

Third, it would preserve the unit vote in a form that would still disfranchise all minorities. It would deny any representation to minority votes within the district that selected the elector and therefore disfranchise minority votes in every district in the country.

Fourth, the great inequality between the populations of different districts would, under district selection, provide impossible inequalities in the voting rights of the people within the States.

Fifth, it would set up a system of districts which would create a new opporunity of further perversion of the popular votes for President by inviting gerrymandering practices in the formation of such districts. Gerrymandering has discredited many legislatures by their brutal exercise of political power to prevent minorities from getting just credit for their votes in congressional districts. Why extend that practice into our presidential elections?

Sixth, the district system of election is merely an attempt to palliate, but provides no real constructive remedy for the evils of the present system.

The district selection of a presidential elector is condemned not only by the gerrymandering of districts, that has heretofore prevailed, but also by the unequal population of districts, whether or not gerrymandering has anything to do with their size.

This great inequality in the size of districts was recognized by the President in his message to Congress on January 9, 1951. In reference to reapportionment under the recent census, the President stated:

> Over the years, widespread discrepancies have grown up between the populations of the various congressional districts. While some variation is inevitable, the extreme differences that now exist can and should be corrected. For example, there is one State in which, according to the 1950 census, the smallest district has a population of under 175,000 and the largest district has a population exceeding 900,000. In many States, there are differences of 200,000 or 300,000 people between the smallest and largest existing districts in the State. While about half of the congressional districts throughout the country are between 300,000 and 400,000 in population, there are some 50 districts with a population of 250,000 or less, and, at the other extreme, some 50 districts with a population of 450,000 or over.
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> Such defects in our system of congressional districts obstruct the effective operation of the democratic principles on which our whole Government rests. It is fundamental to the whole structure of the Constitution that all citizens have equal representation, so far as practicable, in the House of Representatives.
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> * * * * * * * *

The fundamental vice of the presidential elector is that he prevents the representation of minority voters. Whether or not he be selected by State units or by district units the evils are fundamentally the same.

The presidential elector is selected by part of the voters of the State. He represents them, and no others. The presidential elector by his mere selection denies representation to all minority voters within the State, be they members of the Democratic, or Republican, or third party.

Mr. Ralph Donnelly, testifying before the House Judiciary Committee in April 1951, after making an analysis of the operation of the district system of selecting electors, made this statement:

> Certain it is that the present general ticket system of electing presidential electors is both inaccurate and unfair. In the 1948 election, the Republicans received no electoral votes from the South. It has been suggested that the district system will furnish the minority parties with reasonable representation. This is easily tested. Assuming that the Members elected to the House of Representatives in 1948 were presidential electors, how many Republican electors would there have been in the South under the amendment proposed in Mr. Coudert's House Joint Resolution 11? Just two; from the First and Second Districts of Tennessee. The result so closely approximates the present results as to make the proposed change immaterial. Yet on the principle of Mr. Gossett's House Joint Resolution 19, and considering only whole votes, the Republican Party would have received 81 electoral votes. This is a distinct change from the present one-sided method of picking electors.

THE GERRYMANDER

The selection of electors by districts gives no assurance of any improvement above the present system of selection. Instead of having 48 unit votes, as at present, we would have nearly 500.

If such a method of election were established and we could conceive a popular vote in each State on a common level within that State, every State would produce a solid electoral vote in favor of one party or the other. True, as a practical matter, the establishment of electoral districts within the States would result in more division of electoral votes within some States, but would give no assurance whatever that the aggregate result would be any better than at present.

In one respect the present plan of counting State votes as a unit is decidedly preferable to the district system of selection. The State unit vote makes gerrymandering of districts impossible. The selection of electors by districts would open the way for vicious State gerrymandering of electoral districts to serve wrongful partisan ends. Thus a new means of suppressing minority votes would be injected into our electoral system without any counteracting benefits.

President Benjamin Harrison has been quoted as saying that one reason for the adoption of the unit system in voting was to eliminate gerrymandering of districts in presidential elections. Whether or not that statement is accurate, it is, I think, unquestionably true that the State unit vote does have that advantage over the district system of selection.

The gerrymander is a twin sister of the unit vote in depriving minority parties of their just credit at the election booth.

Gerrymandering has been described as a "product of human cupidity and desire to gain power." The unit vote originated in the same illegitimate purpose of dominant political groups in the State to grab votes that rightfully belonged to their opponents.

In 1867, Senator Buckalew declared that at no time within 10 years "from Maine to the Pacific, had the congressional districts been fairly and honestly apportioned."

In any event, the proposed district system of presidential electors would perpetuate the fundamental evils of the present system without giving any constructive assurance of improvement.

A NATIONWIDE POPULAR VOTE REGARDLESS OF STATE LINES IS IMPRACTICAL AND UNDESIRABLE

In State elections the general policy of our country is to elect our officials by popular vote. The voters of the State are under a common qualification for their voting privilege. They meet at the ballot booths on equal terms. On election day they deal alike with local and national issues. They all represent one political geographic entity. The motives that induce them to vote are pretty much alike. The conditions that may cause them to go to the polls or remain away are much the same as apply to the whole State. All their votes are counted as cast; each candidate gets credit for the votes in his favor in every precinct, no more, no less. The candidate receiving the highest number of votes, the plurality candidate, is elected.

With knowledge of this general situation, we may naturally, ask, "Why not elect the President in the same way?" The suggestion is plausible but not practical. The answer is rather obvious. Such a change would eliminate from the Constitution two very important provisions, each intended for the protection of the States. The more important of these two provisions which would be eliminated is that which assures to each State electoral votes in proportion to its population, and not in proportion to the number of voters.

The other provision which would be eliminated is that which grants to each State two electoral votes regardless of its population or the number of its voters.

We must recognize that population and not the number of voters is the true basis of equality of representation as between the States within the Federal Government. There is a great variation in the

percentage of the population of States who vote as between different States and at different times in the same State. Therefore, equality of representation must be based on population and not on the variable number who vote at any particular election.

National elections based on nationwide election regardless of State lines would, as a matter of fact, give very unequal representation to the States in proportion to their respective populations.

The present provision of the Constitution which assures each State its equality of representation in proportion to population is a very valuable one contributing to the security of the States and to the stability of their right in relation to the other States of the Nation.

ELECTION OF THE PRESIDENT BY CONGRESS

In case no candidate for President secures a majority of votes in the electoral college, the election is thrown into the House. This is done even though one of the candidates might have a majority of the total popular votes of the Nation.

Election in the House is confined to a vote among the three highest candidates as voted for in the electoral college.

Under the 20th amendment, Congress may provide for the case of a death of any of the persons from whom the House of Representatives may choose a President, when the choice devolves upon the House. The same is true as to the election in the case of a candidate where the Senate must choose a Vice President.

At an election in the House, as between the regular candidates each State has one vote only, regardless of its population. That one vote is controlled by the majority of the Representatives of each State voting. If there be a tie, the State has no vote.

In voting, every State is the equal of every other State. One State with 300,000 people has an equal voice with a State with 10 million population.

In order to elect, it is necessary that the candidate receive a majority of the votes of all the States participating.

That means without the approving vote of the Representatives of 25 Sates a President cannot be selected in the House.

As 10 large States have over half the population of the United States, it is apparent that 25 out of the 38 other States may select the President regardless of the popular will. The Constitutional Convention rejected a proposed amendment which would have required a majority vote of the House to elect.

There have been instances in which one party had a majority in the House and another party a majority of the States. The minority party thus would be able to elect over the majority represented in the House and over a majority vote of the people of the Nation.

The fundamental evil running through this whole plan of electing in the electoral college and in the House is the absence of any accurate or assured way of reflecting the public will.

Our country had experiences in settling these deadlocks as to the President in 1800, 1824, 1876, and as to the Vice President in 1836.

In each of these controversies as to the selection of a President, public turmoil and great bitterness developed.

The conflict of 1824 was one of the notable ones of our history in peacetime.

The contest of 1876 was likewise a bitter one that greatly disturbed the country.

One primary weakness of the situation is placing in the hands of a few men the responsibility of deciding who shall be President of this Nation.

We had a long experience in selecting Senators by the State legislatures, where the power of making such selection was left to the members of the legislature.

In some instances even one man or a small number of men had the power to elect or defeat. That developed trades and scandalous reports.

A history more current with the time of the election of Senators by the legislatures stated reasons for the change of the system, which provided for their election by popular vote as follows:

There were several objections to it which grew stronger as time went on: (1) Deadlocks were frequent, and sometimes were not broken, so that a State went unrepresented or partially represented. (2) It was much easier to corrupt a legislature than a whole body of electors, and elections were frequently purchased. (3) A type of men could command a majority in the legislature who could not under any circumstances have been elected by the votes of the electors.

A proposal has been made that a majority vote of the authorized membership of the House should be necessary to settle a deadlock in the election of a President. I regard this proposal as an improvident one. We must recognize that when there is a deadlock in the election of a President there is a definite, possibly a desperate, need of making a selection and by means that reflect the popular will.

The authorized majority of the House of Representatives is 435, or 531 of the Congress. Under this proposal, dead men in case of vacancies and absentees, voluntary or compelled, would in effect be given a negative vote and thereby frustrate the practical operation of Congress. It might well place in the hands of a few men, a very few, the control of the election of a President.

While most any method that could be devised would be an improvement on the present method of selection, I believe that the reasons in favor of the plurality candidate in the Nation should prevail.

We elect our Governors, our Representatives in Congress, and our Senators by a plurality vote. In general, this method has been highly successful.

Where electoral votes are divided according to the popular vote in each State, I believe that a plurality of those votes in the Nation is the best method by which the President can be selected. Then no selection in Congress is necessary where the plurality candidate is living.

The Struggle To Control Electors

Important to the understanding of the setting of our electoral system, is a review of the original struggle to control electors.

In 1800 there was an intense struggle for the Presidency. Candidates were nominated at that time by caucuses of Members of Congress. The situation emphasized the danger in the constitutional provision that permitted the State legislatures to direct the manner of appointing electors.

The New York Assembly, in 1799, passed a bill which was rejected in the senate, but which proposed to select electors in New York by districts. A similar bill was defeated in the assembly in 1800. The Federalists then opposed the bill fearing it would decrease the Federalist vote in that State for President.

The spring elections of 1800 in New York City indicated the rising power of the anti-Federalist group which threatened the Federalist control of the legislature.

On the 7th day of May 1800 Hamilton wrote Governor Jay, of New York, calling attention to the unfavorable results to the Federalists of the spring election, and stating:

According to the returns hitherto, it is too probable that we lose our Senators for this district. The moral certainty, therefore, is that there will be an anti-Federal majority in the ensuing legislature; and the very high probability is that this will bring Jefferson into the Chief Magistracy, unless it be prevented by the measure which I shall now submit to your consideration, namely, the immediate calling together of the existing legislature. I am aware that there are weighty objections to the measure, but the reasons for it appear to me to outweigh the objections; and in times like these in which we live it will not do to be overscrupulous. It is easy to sacrifice the substantial interests of society by a strict adherence to ordinary rules. In observing this, I shall not be supposed to mean that anything ought to be done which integrity will forbid, but merely that the scruples of delicacy and propriety, as relative to a common course of things, ought to yield to the extraordinary nature of the crisis. They ought not to hinder the taking of a legal and constitutional step to prevent an atheist in religion, and a fanatic in politics, from getting possession of the helm of state.

Further referring to the anti-Federalist Party, Hamilton said:

In proportion as the true character of the party is understood, is the force of the considerations which urge to every effort to disappoint it; and it seems to me that there is a very solemn obligation to employ the means in our power. The calling of the legislature will have for its object the choosing of electors by the people in districts; this (as Pennsylvania will do nothing) will insure a majority of votes in the United States for a Federal candidate. The measure will not fail to be approved by all the Federal Party; while it will, no doubt, be condemned by the opposite. As to its intrinsic nature, it is justified by unequivocal reasons of public safety.

The reasonable part of the world will, I believe, approve it. They will see it as a proceeding out of the common course, but warranted by the particular nature of the crisis, and the great cause of social order. If done, the motive ought to be frankly avowed. In your communication to the legislature they ought to be told that temporary circumstances had rendered it probable that, without their interposition, the executive authority of the general government would be transfered to hands hostile to the system heretofore pursued with so much success, and dangerous to the peace, happiness, and order of the country; that under this impression, from facts convincing to your own mind, you had thought it your duty to give the existing legislature an opportunity of deliberating whether it would not be proper to interpose, and endeevor to prevent so great an evil by referring the choice of electors to the people distributed into districts.

In weighing the suggestion, you will doubtless bear in mind that popular governments must certainly be overturned, and while they endure, prove engines of mischief, if one party will call to its aid all the resources which vice can give, and if the other (however pressing the emergency) confines itself within all the ordinary forms of delicacy and decorum. The legislature can be brought together in 3 weeks, so that there will be full time for the object, but none ought to be lost.

The above letter was found in the papers of Governor Jay on the back of which the Governor had written:

Proposing a measure for party purposes, which, I think would not become me to adopt.

The significance of this letter is in part due to the fact that before that time the Federalists had resisted the district system of selecting electors.

In Pennsylvania a prior law providing for a choice of presidential electors by the people had expired and could not be renewed without approval of the legislature. That approval the legislature, by a deadlock between the Federalist senate and an anti-Federalist assembly, refused to give.

In view of the prospect of legislation in Pennsylvania being blocked to prevent that State voting in the election of 1800, the paper "Aurora" said:

> Behold from its want of explicitness on the momentous object of choosing electors of the Chief Magistrate, it is almost in the power of 2 or 3 abandoned individuals, by disfranchising our State, perhaps to impose a President of the Union contrary to the strongest wishes of the people.

The Federalists had a majority of only two in the Senate of the Pennsylvania Legislature. The popular vote for Governor was anti-Federalist, as the next legislature was to be.

Public opinion forced a compromise by which the assembly was to choose 8 electors and the senate 7. The State's electoral vote was thus bargained away to serve the interests of the two conflicting groups.

It was proposed that Maryland change from the district to the legislative system of selecting electors, but the law of Maryland remained unrepealed, which permitted the election of electors by districts and an equal division of the electoral vote of the State. Each cadidate received 5 of the State's 10 electoral votes. Under the unit voting system, one of them would, of course, have received the whole 10 votes.

Prior to the election of 1800, electors in New Hampshire had been chosen under the general ticket system by the vote of the people. The legislature of that State canceled the right of a popular election and itself chose the Federalist electors.

Theretofore Massachusetts and Virginia had operated under the district selection of the electors. The Legislature of Massachusetts took over the situation and chose electors by joint ballot, which secured for Adams the whole vote of the State without an opportunity of the people to vote.

Madison introduced a bill in the Legislature of Virginia which provided for the general-ticket plan. The object was to place Virginia on an equality with Federalist States in denying representation to the opposition parties. The bill was enacted.

The Federalist minority in Virginia adopted a resolution voicing the sentiment that they thought themselves citizens of the United States to vote for the highest officer of the Government, but the legislature had separated them from their fellow citizens of the Union and "compels us to speak the voice of Virginia only."

As late as 1812 the anti-Federalist Party in New York had control of the State senate. The Federalist assembly committee proposed a general ticket and a district bill for the selection of presidential electors. The senate counterproposal was to accept the gerrymandered congressional districts or it would do nothing. Subsequently, a forced compromise provided that the electors be chosen by the common pleas court.

In 1812, 3 days before election, the Federalist Legislature of New Jersey repealed the general-ticket law for the selection of electors by the voters and selected its own electors. This was done notwithstanding both parties had nominated electoral tickets.

In the election of 1812 the Legislature of North Carolina repealed its law providing the district system of election and appointed its own electors. The people made such an outcry that its action was reversed.

Thus it is made plain that the origin of the unit voting system was not within the design of the authors of the Constitution. It was not for the purpose of securing political justice in equality of voting privileges. Its dominating purpose was to prevent political opponents from securing credit for the votes cast in their favor. It was through the ruthless exercise of State legislative control that the political leaders used this opportunity of suppressing minority votes of those who in all good conscience had an equal right with the members of majority parties to have their votes recorded in the ultimate count that determined the result of the elections.

AN INJUSTICE TO OUR POLITICAL PARTY SYSTEM

Our present method of computing votes utterly ignores the practical nature of our political system. Within the first four decades of our Government we developed what is called a party system of government. Under our system of popular government a political party, a minority party, as well as a majority party, is a very useful feature of our Government. A political party furnishes the only practical means by which citizens of generally similar convictions and purposes can combine and cooperate together within the State and between the different States in a nationwide common purpose to support men and measures they believe to be for the best interests of the Nation. The best interests of the Nation require that those who desire to so cooperate in the affairs of the country be encouraged, or at least be treated fairly, in making such effort that all citizens who so participate in party government, in public affairs, be allowed to do so under fair rules of the game.

Under the present system each national party has 48 areas of operation and cooperation. Each party has 48 segments as determined by State lines. Now all credit in each State is denied to all minority parties which have less than a plurality vote. Whether the minority party be the Democratic, or Republican, or a third party, it receives no credit from any State vote less than a plurality of its whole vote. In one small State the minority party may be given credit for 300,000 votes; in another large State it may be denied credit for 2 million votes.

Thus in the election of 1948 the Democratic Party received credit in the electoral college for its segments in 28 States and also received credit in the electoral count for the votes for all the Republicans and members of other parties in those 28 States. At the same time the Democratic Party received no credit in the electoral count for the 9,500,000 votes in its favor in the 20 other segments or States of its operation.

The Republican Party was the minority party in 32 States. It received 22 million votes in the 48 States or segments of its party, but

received no credit in the electoral college for the votes of its 12,100,000 supporters in 32 States it failed to carry. Thus a great party, after 94 years of its existence, was slashed to pieces and left with the votes of only 16 of its segments functioning in 16 States, or only one-third of the States of the Nation.

The votes in 32 States, or two-thirds of all its segments, were counted as if cast only for its opponents and their policies.

Thus this false system of computing votes mutilates our great national parties. It denies every political party the cooperation of its supporters in electing a President in every State where it receives less than a plurality of a State vote.

Expressed in short but accurate terms, we elect a President by disenfranchising every minority voter in 48 States.

EACH CANDIDATE FOR PRESIDENT RUNS AGAINST HIMSELF

In 1948 the Democratic Party was a plurality party in the 28 States it carried. It was the minority party in the 20 States it lost. In those 28 States Mr. Truman received 14,600,000 votes and his opponents 13 million. So Mr. Truman in those States was credited, in round numbers, with 27,600,000 votes in the electoral college, which was 3,500,000 more than his total vote in the Nation.

In the Democratic minority States Mr. Truman received 9,500,000 votes for which he received no credit in the electoral college. They were credited as if they had been cast for his opponents.

The Republican Party was a plurality party in 16 States. It was a minority party in 32 States.

Mr. Dewey, in his 16 plurality States, received 9,000,000 votes which were credited in his favor as cast. In the 32 States in which he was the candidate of a minority party he received 12,100,000 votes, which were counted against him and as if cast for his opponents. Thus 12,100,000 votes for Dewey credited to his opponents exceeded the 9,000,000 votes for him as a plurality candidate in the States he carried. Dewey as a minority candidate defeated Dewey as the plurality candidate by a majority of 2,200,000. Truman received more credit for Dewey votes than Dewey.

In the recent election, of the 27 million votes in favor of Stevenson, he received credit in the electoral college for less than 12 percent and Eisenhower over 88 percent.

In the election of 1912, each candidate for President—Taft, Theodore Roosevelt, and Wilson—received more credit in the electoral college for his opponent's votes than for his own.

Thus it is apparent that the votes for a candidate for President, through the counting of his own votes against him, may defeat him for President.

This method of crediting votes seems to reach nearly the limit of absurdity that could be visualized in any form of popular government.

FALSE CREDITS FOR VOTES

In 1948, 6 States, with a total of 179 electoral votes, had over 90 electoral votes credited contrary to the way they were cast. Sixteen of our States, or one-third of the Nation, had a total electoral vote of only 173. Thus the vote denied minority voters in 6 States more than equaled the total vote of 16 States of the Nation.

In 1948, in the 8 largest States, with 27 million voters, over 13,600,000 votes were credited contrary to the way cast. This means that vast numbers of votes in eight States were taken from the candidates for whom they were cast and credited to their opponents.

Under the present system it is fairly certain that in an average election for President the plurality candidate for each State will receive credit in the electoral college in varying numbers from 140 to 210 votes for each 100 cast in his favor.

The smaller the plurality of the candidate the greater will be the false credit he receives. For instance, 1 of 3 candidates carries a State by a plurality of 45 percent of the vote. He will get a false credit for 55 votes in addition to each 45 cast in his favor. A candidate who receives 60 percent of the vote will get a false credit of only 40 votes out of each 100.

In 1948 the 10 large States had over 60 percent of the votes of the Nation. About 48 percent of their votes were credited contrary to the way they were cast.

The unit rule, all or nothing, in each State makes no distinction between a plurality of 1,000 and 1 million, or between a plurality of 40 or 60 percent. Any candidate who has a plurality carries 100 percent of the State vote.

Neither is there any distinction as to the number of electoral votes carried by a plurality. A plurality of 1 percent will carry the whole electoral vote of New York the same as the 3 electoral votes of Nevada.

In 1948 a very high percentage of the electoral votes of the Nation were carried by pluralities of less than 5 percent, important ones by less than 2 percent. The electoral vote of 13 of the 48 States was carried by pluralities of less than half of the State votes. These slim pluralities show the hazard, the injustice of the unit vote. One of these small pluralities can control the total vote of the largest or any other State in the Union. A plurality candidate with a plurality of only 1 (practically equal with his opponent) takes 100 percent of the electoral vote of each State.

In 3 large States with over 10 million voting, 78 electoral votes, the whole number was controlled by a plurality of less than 60,000 votes, a number less than 1 percent of the votes represented in those 3 States by 1 electoral vote.

These false equations result in practically unlimited distortions of the popular votes.

NEEDLESS CONFUSION

In a discussion in the Senate in a reference to the proposed plan of dividing the State vote according to the way the ballots were cast, it was said that the proposed plan—

> is a system based on the theory which has no relation to the actual popular vote, so far as I can see, or only a very small relation, it gives a much greater influence to a one-party State.

This is an amazing statement. It is a denial of the obvious. It is based on an error of fact and in disregard of the constitutional standard of the State's voting power. The question of the proper relation of the electoral vote to popular opinion is purely one of conforming it to the popular will as expressed at the polls in each State and the translation of its popular votes into electoral votes accordingly.

It is an utter fallacy to seek an electoral vote that actually reflects the popular vote without that relation being established in each individual State. That can only be done in one way and that is by dividing the State electoral votes in proportion to the State popular vote. Where each State vote is so credited there is a proper reflection of the popular sentiment of the Nation based on the State's equal representation according to its voting rights under the Constitution.

A system of election that accurately translates the popular votes of each State into its electoral votes according to the way its own citizens voted, properly reflects the will of the people of the Nation in every State.

In the 11 elections, from 1908 to 1948, the American people indirectly cast 372,546,037 votes for President. Of this total vote, 163,379,535 votes, or 44 percent, were credited in the electoral college as if cast for candidates other than those for whom they voted.

In other words, 44 out of each 100 voters were credited contrary to the way their votes were cast. Certainly neither the author of this statement, nor any other person, can find any justifiable relation of the electoral vote to the actual popular vote in these elections under our present system of election.

Under the pending resolution, if adopted, every one of these 372 million votes would have been credited to the candidate for whom they were cast. It is difficult to understand why anyone should say that such an important change in our electoral system would have no relation toward reflecting the popular vote accurately.

Then it is said that the proposed plan "gives a much greater influence to a one-party State." The proposed plan does not give a greater influence to a one-party State. It does, of course, give a greater influence to the party that carries a State by a larger majority than its opponent. However, there is no unfairness in that division; it simply more accurately reflects public sentiment according to the will of the voters of that State. Where a party secures credit for that part of a State vote which it polls at the election, it has all the influence to which it is entitled in that State. When the vote of each State is so divided we have a just election in every State, according to our system of constitutional representation as between the States.

NEEDLESS HAZARD

The needless hazard involved in our electoral system due to the unit rule giving the whole vote of the State to the plurality candidate, has several times been illustrated in our presidential elections.

In 1884 Cleveland came near losing the 36 electoral votes of New York and the Presidency because his plurality in New York was less than 1,100 votes. Had a system of dividing the State electoral votes according to the popular votes of the candidates prevailed, only a small fraction of 1 electoral vote would have been involved instead of the whole 36 electoral votes of New York and the election of a President.

In 1916 Wilson, with a plurality of over 500,000, came within less than 4,000 votes of losing the 11 electoral votes of California and the Presidency. If the electoral votes had been divided according to the popular vote of the candidates, those 4,000 votes would have been insignificant as affecting the result. Those 4,000 votes represented

only about 5 percent of the number of votes cast for each electoral vote in California. Thus the total electoral vote of a large State and the election of a President of the Nation, depended upon a number of popular votes in 1 State that equaled 1 out of 20 of the votes represented by 1 electoral vote in that State.

A folly of the present situation is that we permit a slight margin in one State to have a fictitious value by controlling the whole vote of the State, and thereby making impossible a just count of the votes of the Nation.

In the election of 1948 President Truman, with a plurality of over 2 million votes in the Nation, received credit for slightly over 5 million votes in 3 States in which his plurality was less than 60,000. Seventy-eight electoral votes were dependent upon popular votes in those 3 States, in all 3 of which the plurality was less than one-half of 1 electoral vote.

Here a change of less than 30,000 voters in those 3 States would have controlled a plurality of 2 million in the Nation, 78 electoral votes, and the election of a President.

The electoral vote cast as a unit is so unrepresentative of the popular vote as to give no definite assurance of accurately reflecting the will of the Nation. This lack of a definite relation to the electoral vote either to population or to the votes of the Nation demonstrates that at even most any unexpired time its continuance may definitely thwart the clearly expressed will of the people of the Nation.

The hazard assumed by the Nation under the unit-voting system is not only unsuited to a popular government, but is needless and vicious. It gives a great temptation to fraud, because it needlessly subjects the Nation at times to the temptation of perverting the national verdict at the election by a fraudulent control of a trifling number of votes, wholly unrepresentative of the national attitude. Regardless of the temptation to fraud, it gives these limited numbers of votes an influence out of all proportion to their numbers and in violation of the rights of the great mass of voters whose will might be thwarted thereby.

As long as our present electoral system continues, the Nation is subjected to this needless hazard and the appalling results that might follow the continuance of this situation. Should that calamity occur, Congress would then, perhaps, with great haste, attempt to provide against its reoccurrence.

With ample warning, prudence suggests that Congress should act before instead of waiting until after this known risk is inflicted upon the Nation.

We can never have a fair election of the President without crediting all votes in the ultimate count according to the way they were cast. That purpose can never be accomplished through the proxy system of Presidential elections.

Political leaders in some States may be of that type who hope to preserve a system of selection of electors which will give to their party the advantage of getting credit for their opponent's votes. That is no reason for perverting our Constitution to preserve such purposes. The Nation has an interest to be served beyond partisan parties or advantages of any leaders who seek to aggrandize their position by securing credit for votes cast by their political opponents.

The outstanding deficiency of our electoral system is the failure of the Constitution to require the State votes to be credited in accord-

ance with the vote of the people of each State. The unit vote entirely denies such a just computation. The remedy for the problem is almost self-suggestive: Eliminate the presidential elector; divide the State electoral votes according to the way their people voted; let the people vote directly for the President.

The CHAIRMAN. We will take the next witness.

Mr. SMITHEY. Mr. J. Harvie Williams, Senator.

STATEMENT OF J. HARVIE WILLIAMS, EXECUTIVE VICE PRESIDENT, AMERICAN GOOD GOVERNMENT SOCIETY, WASHINGTON, D. C.

Mr. WILLIAMS. My name is J. Harvie Williams. I live at 1010 16th Street, Washington.

Mr. SMITHEY. Would you identify yourself, Mr. Williams, beyond that?

Mr. WILLIAMS. I am the executive vice president of the American Good Government Society. The trustees of the society have authorized and already partly appointed a committee on electoral reform to study the thing in all its aspects, and one of the things we are concerned with, and it is especially important listening to the testimony this afternoon, is that if the reformers don't get together there won't be any reform.

The CHAIRMAN. That is right.

Mr. WILLIAMS. I think that is the starting place.

We probably won't have our study completed before the end of the year. And I have been working recently on some statistical comparisons of the several systems, in the 1952 election, which I will mention as I go along.

But I would like to begin by putting this question in what I think is its proper perspective, with a little comment on how it came about.

This is from George Bancroft's History of the United States, volume VI, pages 339–340, in which he brilliantly summarized the work of the Constitutional Convention on the method of electing the President. These were his words:

> And now the whole line of march to the mode of the election of the President can be surveyed. The Convention at first reluctantly conferred that office on the National Legislature; and to prevent the possibility of failure by a negative vote of one House or the other, to the Legislature voting in joint ballot. Then to escape from the danger of cabal and corruption, it next transferred the full and final power of choice to an electoral college that should be the exact counterpart of the two Houses in the representation of the States as units as well as population of the States, and should meet at the seat of Government. Then fearing that so large a number of men would not travel to the seat of Government for that single purpose, or might be hindered on the way, they most reluctantly went back to the choice of the two Houses in joint convention. At this moment the though arose that the electors might cast their votes in their own States, and transmit the certificates of their ballots to the seat of Government. Accordingly, the work of electing the President was divided: the Convention removed the act of voting from the joint session of the two Houses to electoral colleges in the several States, the act of voting to be followed by the transmission of authenticated certificates of the vote to a branch of the General Legislature at the seat of Government; and then it restored to the two Houses in the presence of each other the same office of counting the collected certificates which they would have performed had the choice remained with the two Houses of the Legislature.

I think that is about the most succinct description of that work that I have read.

For many years, and particularly so since Franklin D. Roosevelt's election to a third term in the White House, there has been a steadily growing dissatisfaction with the practical results of the constitutional method by which the President of the United States is elected. Some have called for the election of the President by a direct nationwide popular vote, without regard to State boundaries. Others, more conservative, have urged that the present system be brought more into line with the original concepts of the founders of the Republic, preserving the electoral vote by States, but giving the preferences of individual voters more real weight and equality in determining the overall result. They seek to assure that metropolitan areas, with their close-knit ethnic voting groups, will no longer have an unintended and inordinate overweight in deciding how the electoral vote of the big-city States will be cast, an overweight that in practice has frequently given them an unwarranted and unfair balance of power.

Two of the resolutions before this committee were before the House of Representatives in the 1st session of the 82d Congress in 1950. They are the proposals of Senators Mundt and Kefauver. In the House they were sponsored by Representatives Coudert and Gossett.

In a statement on these resolutions, submitted to Subcommittee No. 1 of the House Committee on the Judiciary, which appears in the record of the hearings, Dr. Ruth C. Silva, of the political science department of Pennsylvania State College, observed most succinctly:

> Both House Joint Resolution 11 (by Mr. Coudert) and 10 (by Mr. Gossett) appear to be designed to deal with that problem which seems to concern some Republicans and a number of southern Democrats. In recent years, the general ticket system of choosing presidential electors has compelled both parties to nominate presidential candidates who advocate policies designed to win the votes of conscious ethnic, religious, and economic groups in metropolitan centers, where these minorities hold the balance of power in populous States with large blocs of electoral votes. Consequently, all recent presidential candidates have supported civil liberties, social security, collective bargaining, et cetera. On the other hand, the Congress is elected in a constituency that makes congressional support for such a program unlikely, for a majority of Senators and Representatives are elected in smaller cities, towns, suburban, and rural areas.

Under the present electoral system—established by State law under the Constitution of the United States—the voters in each State vote for their presidential electors en bloc. There is actually no direct vote for President. The chosen electors themselves vote en bloc when they meet in their respective State capitols to vote for the presidential nominee of their party because they are party men elected as a party group. Consequently, the simple plurality of a single vote in each State can determine whether the electors are to be Democratic or Republican. The unequal weight of this 1 decisive vote—as much as 15 to 1—is close to the heart of the problem. New York has 45, while Vermont has but 3.

It is also because of this method, whereby the full electoral weight of each State is cast en bloc for the nominee of one party, that those States with larger cities and larger population generally have come to have a dominant voice in the selection of presidential candidates at the national conventions of each party. The late Charles D. Hilles, political strategist extraordinary, in 1939 explained this result in this way:

> New York's power in political conventions, and therefore over the White House, comes not from the size of its delegations in the party national conventions, which are roughly 10 percent in both instances. New York's power comes from

the fact that its delegations represent 47 (now 45) electoral votes, or nearly 20 percent of the total number needed to elect a President. It is this little understood fact that accounts for the almost invariable selection of presidential nominees from New York or some other large State in sympathy with New York's political attitudes. But New York decides even that.

Other astute politicians have gone on record to say that this almost inevitable policy of bowing to the will of the big States leads all parties to campaign pronouncements and pledges as well as presidential policies, aimed at winning and holding the support of political pressure groups in the big cities—groups that frequently represent the views of a minority of each party as well as a minority of the voters of the country. This is why, it has been declared repeatedly, the Republican Party in its national conventions in recent years has almost always flouted the views of those sections of the country which elect the bulk of the Republican members of Congress. Equally so, it is the reason why left-wing Democrats from the large Northern States, dominated by the great boss-ridden cities, control the Democratic National Conventions and are able to reject the conservative ideas and ideals of the Southern Democrats who elect so many of the Democratic Members of Congress.

Those on the conservative side, who object to the present bloc system of electing electors, contend that it is this established practice of wooing the big city (minority) pressure groups by Presidents, and presidential candidates, which has led to the major splits in the two major national parties. They maintain, too, that this seeming political necessity is at the bottom of most of the split between the White House and the Congress in basic policy determination. They point out that this has been especially true in the frequent bitter conflicts between the President and the House of Representatives.

Members of the House are elected from congressional districts within States, except, in a very few instances, where some are chosen "at large." Thus, they are concerned with individual district pluralities rather than statewide pluralities, and relatively few of them need to appeal to those special (minority) voting blocs or pressure groups which are catered to so openly by presidential nominees and by candidates for statewide offices in the big-city States, on policies and principles that are contrary to the overall best interests of the States and the Nation.

New York State provides an excellent example. Nearly all of the Republican Members of the House of Representatives from New York are from districts outside New York City, or are from districts within the city where bloc voting is ineffective. Consequently, New York State's Republican Members of the House of Representatives are overwhelmingly conservative in their thinking, Representatives Taber, Reed, and Coudert being good examples. On the other hand, Democrat Members of the Congress from New York State are, almost without exception, from districts within New York City where ethnic voting blocs are predominant, or at least are effective. So, again, almost without exception, New York's Democrat Members of the House are extremely liberal in their public views. This same condition prevails, though sometimes with less force, in the big-city States outside the South.

Advocates of a breakup of State blocs of electoral votes, permitting a division between the parties on some wise and practicable basis, are confident that it would assure National Government in the American tradition for at least a generation. Quite naturally, all

moves toward this end will be bitterly opposed by those who would lose political power.

Underlying all discussion of electoral reform are four essential questions:

1. Shall presidential electors be continued, or abolished?

2. Shall the electoral, or presidential strength of the States be divisible among the political parties?

3. If to be divisible, what shall be the basis of division?

(*a*) By a direct popular vote for President and Vice President?

(*b*) By a proportional division of each State's electoral vote according to the division of the popular vote therein?

(*c*) By election of electors in the same manner as their counterparts in the Congress, that is, the two "senatorial" electors statewide, and the "representative" electors in congressional districts?

4. Shall the majority requirement for election of the President be maintained, or shall a substantial plurality be sufficient?

I think those questions are at the bottom of the whole subject.

There are many other corollary questions. But the answers to these essential questions will largely establish the framework for the answers to the subsidiary questions.

If electoral reform is truly desired, the political tactic of the minimum constitutional change necessary to achieve the object, should not be overlooked.

More important, it seems to me, is the necessity of answering these questions within the long-established framework of the American political system, a system that is unique in the annals of mankind.

With us, sovereignty is posited in the people of the United States, reckoned by States, and not in what some call the mass of the American people.

Our governments, Federal and State, are governments of delegated powers, governments of limited sovereignty.

With us, sovereign powers increased or diminished by constitutional amendment, an act of the will of the people, as against the election officers being an expression of the will of the people.

On the other had, in European governments, sovereignty is full, complete, and omnipotent. For example, when the Communist Party gains power in any European country, it can institute its program without changing the constitutional structure of their government.

Sovereignty is the power to declare the law. By reserving in the people of the United States those sovereign powers concerned with liberty—the sum total of human rights in the realm of the moral law—we hold that there are vast areas in which no law can be declared.

The Founding Fathers did a remarkable thing when they divided the delegated power to declare the law into three categories. What they described as the legislative power is the power to declare the law in advance of personal acts, as a guide to human conduct; the executive power is the power to declare the law administratively in the conduct of public affairs; and the judicial power is the power to declare the law in cases at bar.

My point is that all three powers are but elements of the sovereign power to declare the law. And I should add that the President has a very healthy share of the legislative power. For his power to disapprove acts of Congress is equal to at least one-sixth of the Senators and one-sixth of the Representatives.

It is no reflection on the Founding Fathers, rather it is the highest compliment to their political knowledge and skill, to say that they merely rearranged familiar things on a new foundation, familiar things rooted deeply in legal concepts of the Germanic peoples in the early Middle Ages. The Germanic people saw law as the sense of justice of the community. Both the king and the subject were under the law. The Anglo-Saxons brought this idea of law to England, and Englishmen brought it to North America. Today the common law is enjoyed in English-speaking countries, but nowhere else. In the Germanic countries of northern and western Europe, including France, the Roman law was "received" as the basis of their legal polity and gave support to the doctrine of divine right of kings, which became the foundation for the all-powerful state, now that the kings are gone. In England alone were the kings kept subordinate to the law.

These constitutional ideas are of supreme importance to us in the United States. For the Roman law and the English law have produced entirely different political systems that are mutually exclusive in concepts, institutions, and traditions. It is not inaccurate to say that the essential political conflict in the United States today is between the English law tradition and the Roman law tradition. In fact, the American Good Government Society has stated:

> The supreme issue in American life today is whether our political system, with its remarkable institutions and their upholding traditions, shall be maintained, or whether the whole of it shall be made over in the image of European social democracy.

In the light of the foregoing, I shall now take up the four essential questions which underlie the whole question of electoral reform.

At this time, the retention of the presidential elector seems to me to be necessary. One practical reason is that his abolition means, almost certainly, ultimate constitutional recognition of the presidential nominees of political parties, to be followed, in time, by Federal control of elections from the qualifications of voters to the final count. The abolition of the elector will create legal interstate candidacies in the place of the present intrastate candidacies of the electors. That is a function which the elector serves. If this speculation is well founded, the objection is constitutional, for it would be the direction of our reforming dual Federal and State sovereignties into a single sovereign, a unitary state after the European models. The practical objection is that any proposal for the abolition of the elector may well prevent ratification by the necessary number of States. The States rights doctrine is sufficiently strong and widespread to give pause, for purely practical reasons.

The electoral or presidential strength of the several States should be divided between the parties. The consolidation of the full presidential power of a State in behalf of a plurality of a single vote is putting too many eggs in one basket.

The fact is that the 11 States outside of the South that have 12 or more electoral votes have a total of 251 electoral votes, only 15 less than the required majority of 266.

Since the full presidential power of each State turns on a single decisive vote, these few States become the limited constituency of the White House.

At this point, may I ask: I had had in preparation some tabulations and charts that I wanted to get done in a professional manner, which I wanted to submit to the committee, if agreeable.

The CHAIRMAN. Why do we not do this: We are going to be in session until Thursday, as Senator Knowland told me today. Now, why can we not, during that time, call you, and there will be some other witnesses we will want to hear yet, and you can finish your testimony at that time.

Mr. WILLIAMS. All right, sir.

I will just mark it off right here.

The political power of a State in the election of the President should be divisible between the political parties therein, on some practicable basis. The present consolidation of the full electoral power of a State in behalf of a statewide plurality of a single vote puts too many eggs into a small basket. Twelve States outside the South have more than the average weight in electing the President—11.66 electoral votes. Ranging from 12 to 45 votes, these States have a total of 251 electoral votes or just 15 less than the required electoral majority. Since each of these 12 blocs of electoral votes turns on a plurality of a single vote—the decisive vote—these few States become the limited constituency of the White House, for all practical purposes, to the near exclusion of most of the other States.

Twenty-five States were won by General Eisenhower in 1952 by between 50 and 60 percent of the popular vote cast in them. Together they gave him 364 electoral votes. This means that 25 decisive votes in 25 States gave him 98 more electoral votes than he needed for election. In that same election and in the same 12 States the 314 seats in the House of Representatives, which correspond to as many of the 364 electoral votes, were decided by 314 popular vote pluralities. This is the nub of the case for electoral reform that will permit division between the parties of each State's electoral vote.

I seriously doubt that any amendment proposing the direct election of the President by nationwide popular vote could secure the support of three-fourths (36) of the State legislatures. Thirteen rejections would defeat the proposal, and there are 24 States that each have 8 or fewer electoral votes as their weight in the scale of presidential elections. Direct, popular election of the President would reduce the relative weight of each of them. It is altogether unlikely that these States would make the sacrifice for a principle that brought nothing to them.

Less controversial is the plan for the proportional division of each State's electoral vote among the parties according to their share of the popular vote cast in them for President. In its present form it requires the abolition of the person and office of elector of the President. This step establishes the interstate candidacy of presidential candidates as against the intrastate candidacy of electors in the name of a party and a party candidate for President. This point could be a rallying point for those who fear further Federal encroachment on the States' present power to prescribe the qualifications of voters within their respective borders. However, it would permit a division of each State's electoral vote and thus would reduce the present inordinate power of highly organized pressure groups in the large and pivotal States whose blocs of electoral votes must be won by the successful candidate for President under the present electoral system.

The proportional plan passed the Senate on February 1, 1950, by a vote of 64 to 27. This is a powerful political fact in its favor. However, brought to the floor of the House under very disadvantageous circumstances—without a special rule from the Rules Committee—

it failed of passage in that body. How it would fare in another attempt is a question I cannot answer.

It has been said that the House of Representatives has not passed any resolution proposing reform of the electoral system since it passed the 12th amendment 150 years ago. If this be true, it would be love's labor lost to develop a constitutional amendment that could not pass in the other body.

The election of electors of the President and Vice President as their counterparts in the Senate and the House of Representatives are elected, as proposed here by Senator Mundt and in the House by Representative Coudert, is another approach to the problem of dividing the electoral vote in the States between the parties. It, too, is an old proposal, having been most recently brought forward in 1949 by Congressman Coudert. Like the plan for proportional division of the electoral vote, it would not change the present relative weights of the States in the election of the President. But, by retaining the person and office of elector of the President, it avoids the risks involved in the creation of interstate candidacies. Nor can its provisions be charged with being incompatible with other parts of the Constitution. It would divide the electoral vote of the States along the lines of party division of their delegations in the two Houses of Congress, thus maintaining a close balance in each State between the parties' representation in the Congress and their representation—or weights—in the election of the President. Essentially, this plan would change the method of election of the 435 electors of the President—corresponding to Representatives in Congress—from the present statewide system to election in congressional districts. The two electors corresponding to United States Senators would continue to be elected on statewide tickets.

All of the electoral reform proposals before the Congress would shift the center of political gravity of the White House from its present location in New York City to points farther west and south—somewhere near southern Indiana. All of them would shrink to proper proportions the present power of pressure groups which is so greatly multiplied by their concentration in strategic locations where they can operate as balances of power on large blocs of electoral votes. All of them would eliminate—and tend to equalize—the present power of large pivotal States as such.

The principal objection voiced to the Mundt-Coudert State and district plan is the use of present congressional districts for the election of the district electors. The objection is on the ground of gerrymandering. Of course, these districts should not be gerrymandered. But Congress has the power to solve this problem without resort to a constitutional amendment. When solved by ordinary legislation for the Congressman's district it would be solved automatically for the district elector.

The present requirement of a majority of the electoral vote for the election of the President should be retained at all costs. It is the taproot of the two-party system. Parties exist to organize like-minded voters into numbers sufficient to elect Presidents. The necessity for an electoral majority does not permit the continued existence of more than two parties as serious participants in presidential elections. Of necessity the parties must reach out for wide support. A lesser objective than an electoral majority cannot have the cohesive force necessary to maintain a two-party system and would permit

the continued existence of third and fourth parties because of their balance-of-power positions. Such parties are but leeches and jackals feeding on the body politic. The plurality election of the President would invite the creation of such parties.

A great deal has been said and written in support of the two-party system by people whose admiration for it is greater than their understanding of the forces that compel it. For I do not recall a line rooting it in the requirement of an electoral majority for the election of a President. But, truly, that is its foundation. And that foundation should not be disturbed.

In conclusion, I should like to offer a series of 12 graphic charts and 2 tables recasting the 1952 election that are designed to be helpful to the committee in its consideration of this important problem. Each of them, I believe, is self-explanatory.

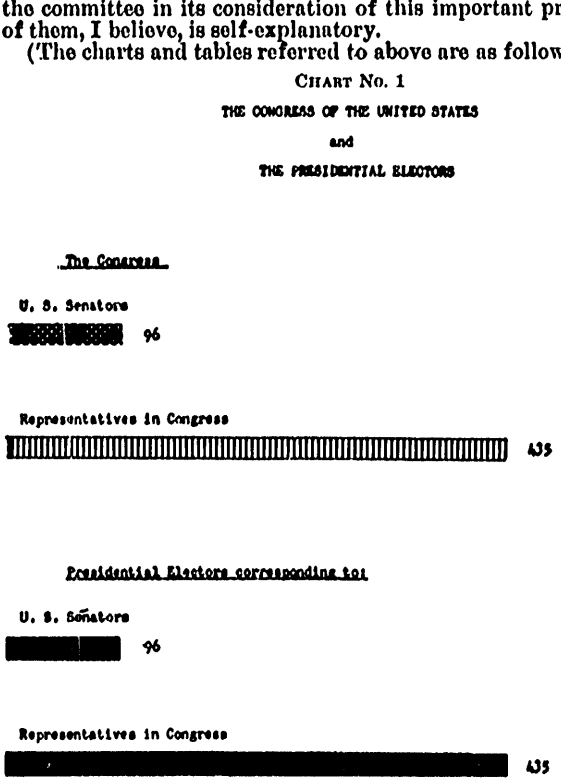
(The charts and tables referred to above are as follows:)

CHART NO. 1

THE CONGRESS OF THE UNITED STATES

and

THE PRESIDENTIAL ELECTORS



There is one Elector of the President for each United States Senator and one for each Representative in Congress.

Based on 1950 Census.

J. Harvie Williams 1953

Chart No. 2

The Congress of the United States

and

The Presidential Electors

As Counterpart Political Bodies:

The Congress in Joint Session

The Presidential Electors

A Majority of the Electors

Electors of the President were established as counterparts of Members of the two Houses of Congress in order to separate the Executive Power and the Legislative Power and, at the same time, to assure to each State electoral weight equal to its weight in the whole Congress.

Based on 1950 Census.

J. Harvie Williams 1953

CHART No. 3

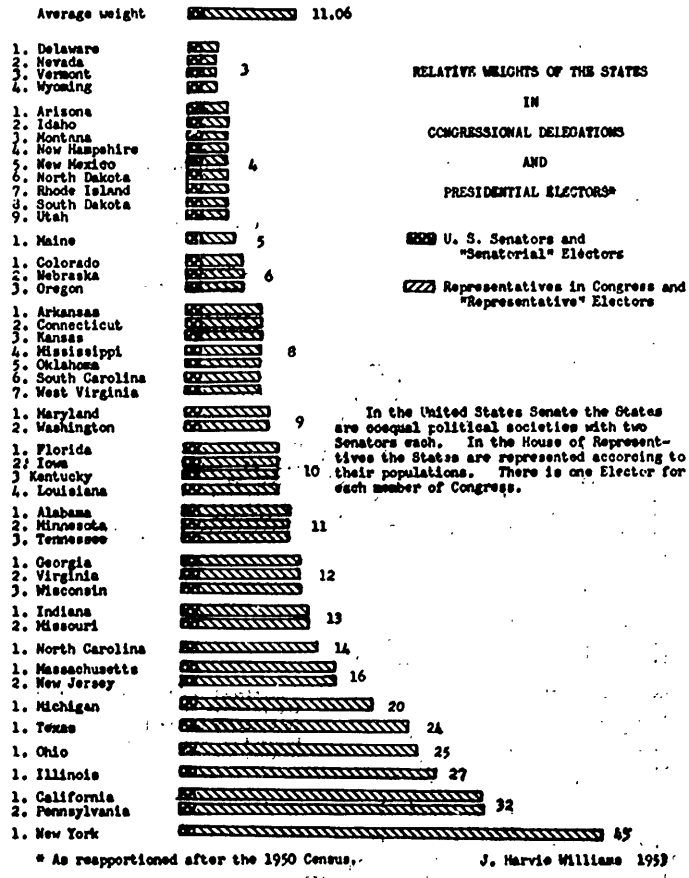
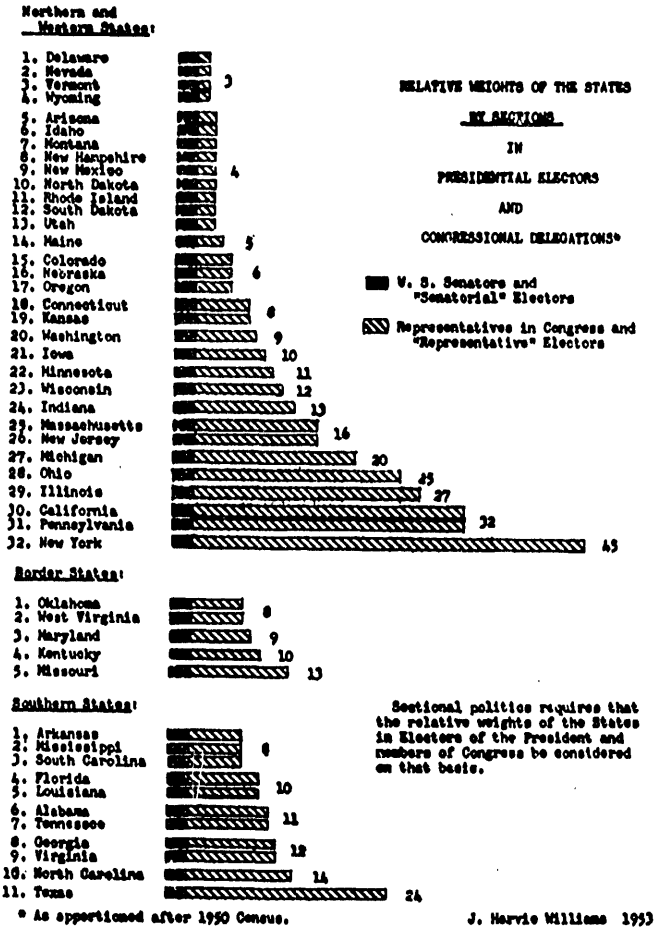

Average weight 11.06
1. Delaware
2. Nevada
3. Vermont
4. Wyoming
3
1. Arizona
2. Idaho
3. Montana
4. New Hampshire
5. New Mexico
6. North Dakota
7. Rhode Island
8. South Dakota
9. Utah
4
1. Maine
5
1. Colorado
2. Nebraska
3. Oregon
6
1. Arkansas
2. Connecticut
3. Kansas
4. Mississippi
5. Oklahoma
6. South Carolina
7. West Virginia
8
1. Maryland
2. Washington
9
1. Florida
2. Iowa
3. Kentucky
4. Louisiana
10
1. Alabama
2. Minnesota
3. Tennessee
11
1. Georgia
2. Virginia
3. Wisconsin
12
1. Indiana
2. Missouri
13
1. North Carolina
14
1. Massachusetts
2. New Jersey
16
1. Michigan
20
1. Texas
24
1. Ohio
25
1. Illinois
27
1. California
2. Pennsylvania
32
1. New York
45
RELATIVE WEIGHTS OF THE STATES
IN
CONGRESSIONAL DELEGATIONS
AND
PRESIDENTIAL ELECTORS*
U. S. Senators and "Senatorial" Electors
Representatives in Congress and "Representative" Electors
In the United States Senate the States are ecequal political societies with two Senators each. In the House of Representatives the States are represented accoreing to their populations. There is one Elector for each member of Congress.
* As reapportioned after the 1950 Census.
J. Harvie Williams 1953

CHART No. 4



* As apportioned after 1950 Census.

J. Harvie Williams 1953

CHART NO. 5

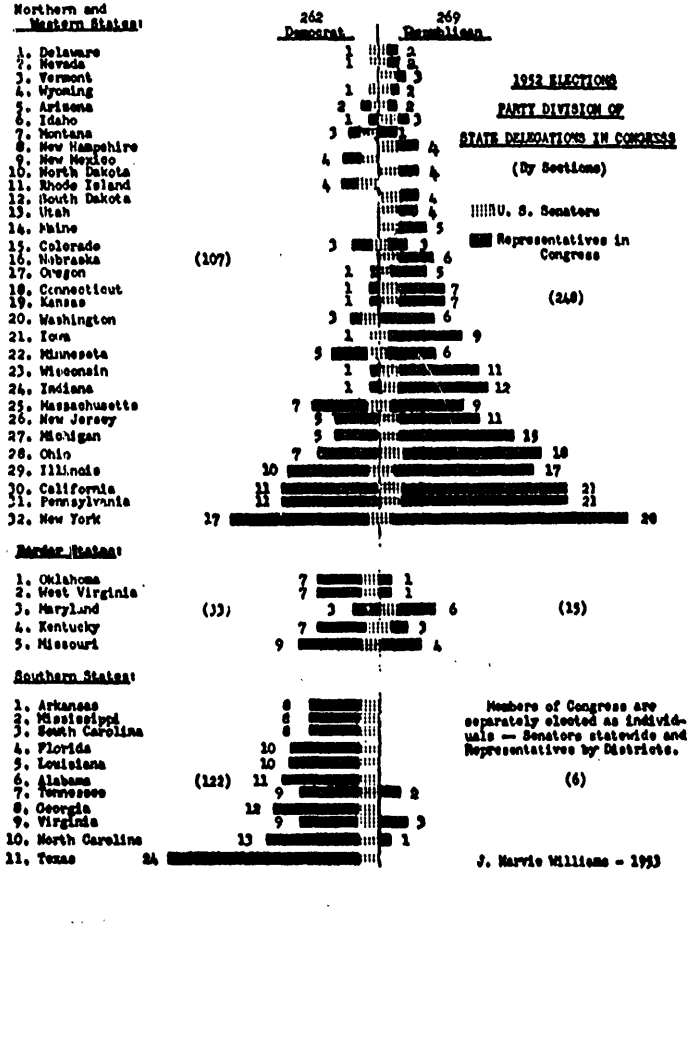

Northern and Western States:
262
Democrat
269
Republican
1. Delaware 1 2
2. Nevada 1 2
3. Vermont 3
4. Wyoming 1 2
5. Arizona 2 2
6. Idaho 1 3
7. Montana 3 4
8. New Hampshire 4
9. New Mexico 4 4
10. North Dakota 4
11. Rhode Island 4
12. South Dakota 4
13. Utah 4
14. Maine 5
15. Colorado 3 5
16. Nebraska (107) 6
17. Oregon 2 5
18. Connecticut 1 7
19. Kansas 1 7
20. Washington 3 6
21. Iowa 1 9
22. Minnesota 5 6
23. Wisconsin 1 11
24. Indiana 1 12
25. Massachusetts 7 9
26. New Jersey 5 11
27. Michigan 5 18
28. Ohio 7 18
29. Illinois 10 17
30. California 11 21
31. Pennsylvania 11 21
32. New York 17 20
1952 ELECTIONS
PARTY DIVISION OF
STATE DELEGATIONS IN CONGRESS
(By Sections)
U. S. Senators
Representatives in Congress
(248)
Border States:
1. Oklahoma 7 1
2. West Virginia 7 1
3. Maryland (33) 3 6 (15)
4. Kentucky 7 3
5. Missouri 9 4
Southern States:
1. Arkansas 8
2. Mississippi 8
3. South Carolina 8
4. Florida 10
5. Louisiana 10
6. Alabama (122) 11
7. Tennessee 9 2
8. Georgia 12
9. Virginia 9 3
10. North Carolina 13 1
11. Texas 24
Members of Congress are separately elected as individuals — Senators statewide and Representatives by Districts.
(6)
J. Harvie Williams - 1953

CHART No. 6

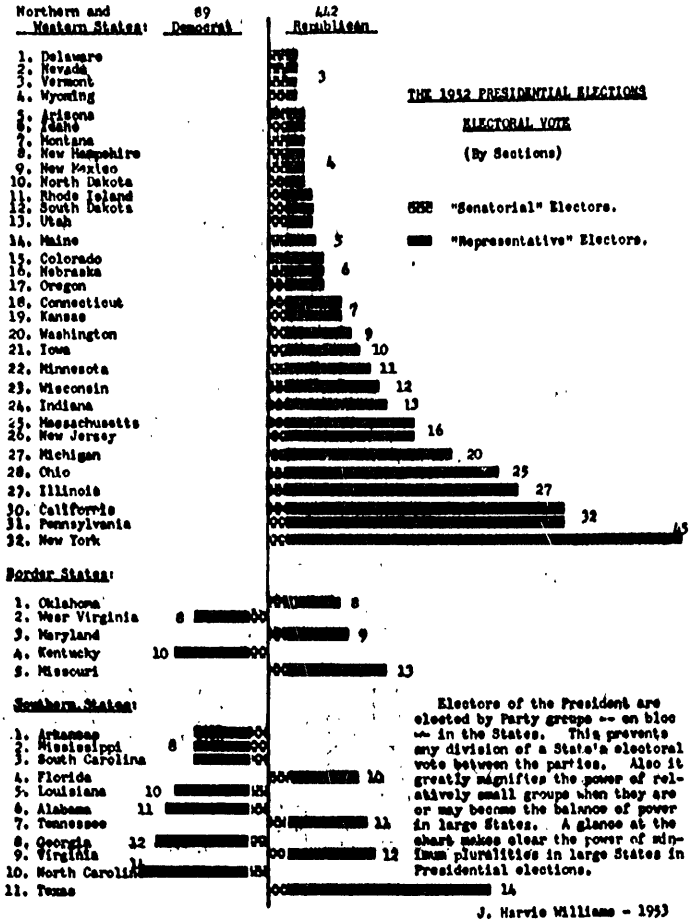

Northern and Western States:
89 Democrat
442 Republican
1. Delaware
2. Nevada
3. Vermont
4. Wyoming
5. Arizona
6. Idaho
7. Montana
8. New Hampshire
9. New Mexico
10. North Dakota
11. Rhode Island
12. South Dakota
13. Utah
14. Maine
15. Colorado
16. Nebraska
17. Oregon
18. Connecticut
19. Kansas
20. Washington
21. Iowa
22. Minnesota
23. Wisconsin
24. Indiana
25. Massachusetts
26. New Jersey
27. Michigan
28. Ohio
29. Illinois
30. California
31. Pennsylvania
32. New York
Border States:
1. Oklahoma
2. West Virginia
3. Maryland
4. Kentucky
5. Missouri
Southern States:
1. Arkansas
2. Mississippi
3. South Carolina
4. Florida
5. Louisiana
6. Alabama
7. Tennessee
8. Georgia
9. Virginia
10. North Carolina
11. Texas
THE 1932 PRESIDENTIAL ELECTIONS
ELECTORAL VOTE
(By Sections)
"Senatorial" Electors.
"Representative" Electors.
Electors of the President are elected by Party groups -- en bloc -- in the States. This prevents any division of a State's electoral vote between the parties. Also it greatly magnifies the power of relatively small groups when they are or may become the balance of power in large States. A glance at the chart makes clear the power of minimum pluralities in large States in Presidential elections.
J. Harvie Williams - 1933

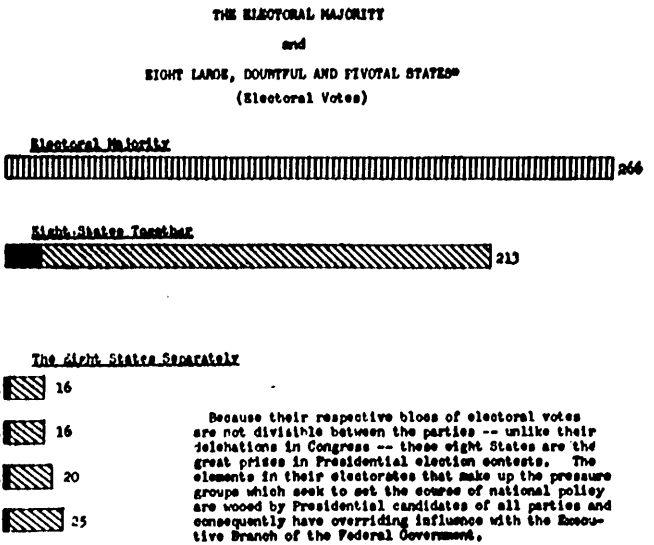
CHART NO. 7

THE ELECTORAL MAJORITY

and

EIGHT LARGE, DOUBTFUL AND PIVOTAL STATES*

(Electoral Votes)



* Apportionment after 1950 Census.

J. Marvin Williams - 1953

CHART NO. 8

PARTY DIVISION OF EIGHT LARGE, DOUBTFUL AND VITAL STATES

IN THE 1952 ELECTIONS

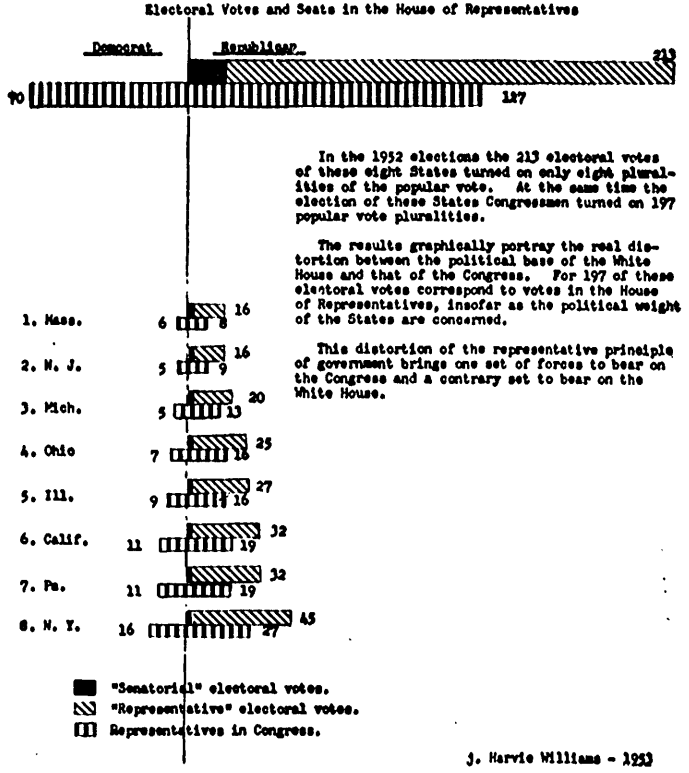


Chart No. 9: This chart shows the wide difference between the political base of the White House and the political base of the House of Representatives. Were the electoral votes of each State divisible between the parties, the presidential election results would be much closer to the results in the election of the Congress. Then the political pressure groups would have the same weight in presidential elections that they now have in the elections of Senators and Representatives. (In 1948 the candidacy of Henry Wallace deflected to Dewey the electoral votes of New York (47) and Michigan (19). Otherwise, in these 8 States the Republican vote would have been 51 and the Democratic vote would have been 160.)

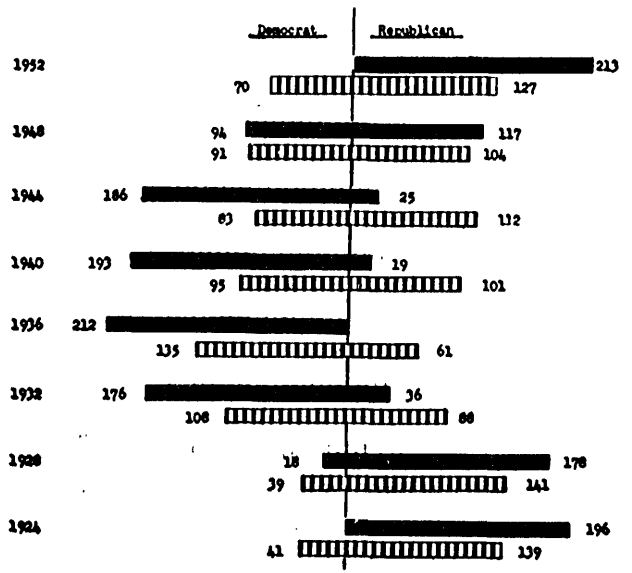
CHART NO. 9

EIGHT LARGE PIVOTAL STATES IN NATIONAL ELECTIONS

1924-1952

Electoral Vote and Party Division of Seats

In the House of Representatives



Electoral Vote of eight large pivotal States -- Mass., N. J., Mich., Ohio, Ill., Cal., Pa., and N. Y.

Seats in the House of Representatives.

Excepting two, all of a State's electoral votes correspond to its votes in the House of Representatives.

J. Harvie Williams - 1953

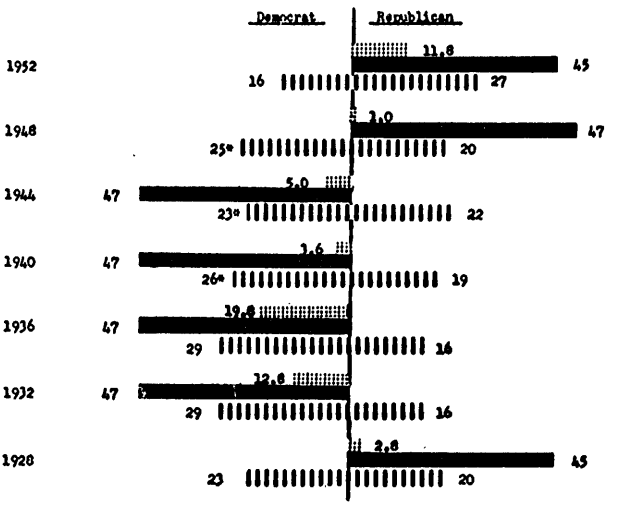
Chart No. 10: Because of its indivisible bloc of 45 electoral votes, New York's pivotal weight in presidential elections is so great (its loss might defeat either party) that the political gravity of the White House may be said to center in New York City, which is also the center of the political pressure groups. These pressure groups have no such pivotal power over New York's delegation in the House of Representatives, all of these being elected in separate congressional districts. This chart is a good illustration of the great distinction between political base of the White House and that of the Congress.

CHART NO. 10

NEW YORK STATE IN NATIONAL ELECTIONS 1928-1952

Presidential Plurality, Electoral Vote and Party Division of Seats

In the House of Representatives

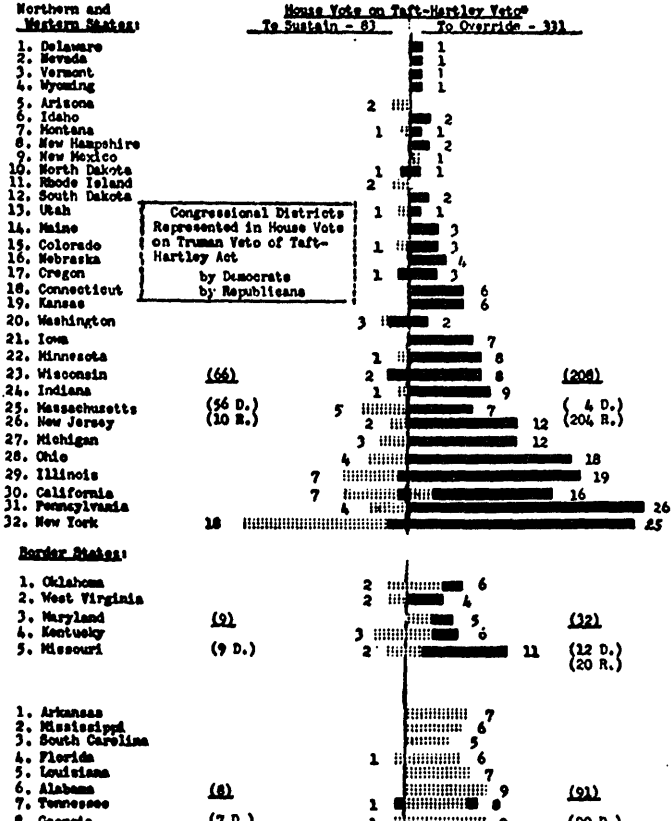


(All of a State's electoral votes correspond to seats in the House of Representatives except the two which correspond to seats in the United States Senate. In the Senate States are coequal political societies.

J. Harvie Williams - 1953

Chart No. 11: Diehard opposition to the Taft-Hartley Act is confined to a few large States with large blocs of electoral votes. But the power of this group is enormously magnified at the White House by the indivisible State blocs of electoral votes. Because State delegations in the House of Representatives are divisible between the parties, the power of pressure groups is limited to their numbers in the electorate.

CHART No. 11

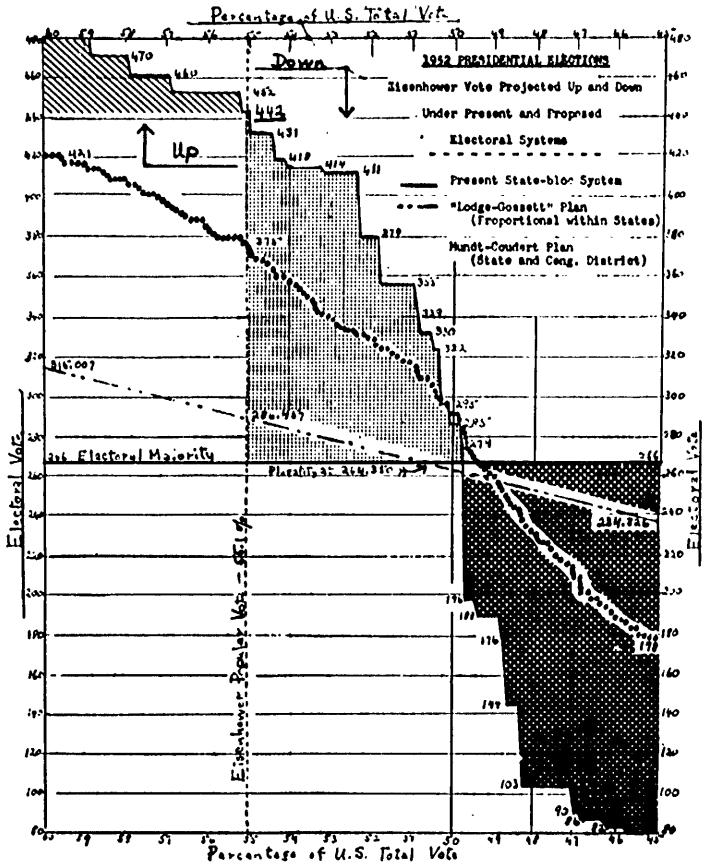


* June 20, 1947, 80th Congress Roll Call No. 85.

J. Harvie Williams - 1953

Chart No. 12: The Eisenhower popular vote—55.1 percent of the United States total—is projected upward to 60 percent and downward to 45 percent of the total popular vote to show a moving comparison of the present and proposed methods of electing the President. For this purpose, it must be assumed that the vote would have been cast

CHART NO. 12



under the proposed plans as it was actually cast under the present electoral system; but this assumption is not necessarily true. The Lodge-Gossett plan would divide the electoral vote of each State among the candidates for President therein in proportion to the popular vote of each. The Mundt-Coudert plan provides for the election of presidential electors in exactly the same manner that United States Senators and Representatives in Congress are elected.

1952 Presidential election—Eisenhower electoral vote under Coudert-Mundt amendment [1] compared with result under present electoral system

Section and State	Electoral vote	Coudert-Mundt amendment			Present system	Change
		Senatorial electors	Representative electors	Total		
New England:						
1. Connecticut	8	2	6	8	8	.....
2. Maine	5	2	3	5	5	.....
3. Massachusetts	16	2	10	12	16	−4
4. New Hampshire	4	2	2	4	4	.....
5. Rhode Island	4	2	1	3	4	−1
6. Vermont	3	2	1	3	3	.....
Total	40	12	23	35	40	−5
Mid-Atlantic:						
1. Delaware	3	2	1	3	3	.....
2. New Jersey	16	2	11	13	16	−3
3. New York	45	2	29	31	45	−14
4. Pennsylvania	32	2	20	22	32	−10
Total	96	8	61	69	96	−27
Middle West:						
1. Illinois	27	2	18	20	27	−7
2. Indiana	13	2	10	12	13	−1
3. Iowa	10	2	8	10	10	.....
4. Kansas	8	2	6	8	8	.....
5. Michigan	20	2	14	16	20	−4
6. Minnesota	11	2	7	9	11	−2
7. Nebraska	6	2	4	6	6	.....
8. North Dakota	4	2	2	4	4	.....
9. Ohio	25	2	19	21	25	−4
10. South Dakota	4	2	2	4	4	.....
11. Wisconsin	12	2	9	11	12	−1
Total	140	22	99	121	140	−19
Rocky Mountain:						
1. Arizona	4	2	2	4	4	.....
2. Colorado	6	2	4	6	6	.....
3. Idaho	4	2	2	4	4	.....
4. Montana	4	2	2	4	4	.....
5. Nevada	3	2	1	3	3	.....
6. New Mexico	4	2	2	4	4	.....
7. Utah	4	2	2	4	4	.....
8. Wyoming	3	2	1	3	3	.....
Total	32	16	16	32	32	.....
West coast:						
1. California	32	2	24	26	32	−6
2. Oregon	6	2	4	6	6	.....
3. Washington	9	2	7	9	9	.....
Total	47	6	35	41	47	−6

[1] H. J. Res. 1, 83d Cong., by Representative Frederic R. Coudert, Jr., 17th New York District (since March 1949, 81st Cong.); and S. J. Res. 95, 83d Cong., by Senator Karl E. Mundt, of South Dakota. These resolutions would require that electors of the President be elected in the same manner as their counterpart Senators and Representatives in the Congress, i. e., 2 Statewide in each State (Senatorial) and 1 in each congressional district (Representative).

NOTE.—This tabulation prepared from official election returns of the Presidential vote in the States and congressional districts by the American Good Government Society, committee on electoral reform.

1952 Presidential election—Eisenhower electoral vote under Coudert-Mundt amendment [1] compared with result under present electoral system—Continued

Section and State	Electoral vote	Coudert-Mundt amendment			Present system	Change
		Senatorial electors	Representative electors	Total		
Border States:						
1. Kentucky	10	0	3	3	0	+3
2. Maryland	9	2	6	8	9	−1
3. Missouri	13	2	7	9	13	−4
4. Oklahoma	8	2	5	7	8	−1
5. West Virginia	8	0	2	2	0	+2
Total	48	6	23	29	30	−1
Southern States:						
1. Alabama	11	0	0	0	0	.....
2. Arkansas	8	0	1	1	0	+1
3. Florida	10	2	5	7	10	−3
4. Georgia	12	0	0	0	0	.....
5. Louisiana	10	0	1	1	0	+1
6. Mississippi	8	0	1	1	0	+1
7. North Carolina	14	0	4	4	0	+4
8. South Carolina	8	0	3	3	0	+3
9. Tennessee	11	2	3	5	11	−6
10. Texas	24	2	14	16	24	−8
11. Virginia	12	2	8	10	12	−2
Total	128	8	40	48	57	−9
United States, total	531	78	297	375	442	−67

[1] H. J. Res. 1, 83d Cong., by Representative Frederic R. Coudert, Jr., 17th New York District (since March 1949, 81st Cong.); and S. J. Res. 95, 83d Cong., by Senator Karl E. Mundt, of South Dakota. [2] These resolutions would require that electors of the President be elected in the same manner as their counterpart Senators and Representatives in the Congress, i. e., 2 Statewide in each State (Senatorial) and 1 in each congressional district (Representative).

NOTE.—This tabulation prepared from official election returns of the Presidential vote in the States and congressional districts by the American Good Government Society on electoral reform.

Apportionment of electoral college votes on the basis of the popular vote, presidential election of 1952 (as provided in H. J. Res. 92, 83d Cong., 1st sess.)

State	Total popular vote	Electoral vote		Republican			Democratic			Other		
		Republican	Democratic	Popular vote	Proportion of total	Electoral vote (H. J. Res. 92)	Popular vote	Proportion of total	Electoral vote (H. J. Res. 92)	Popular vote	Proportion of total	Electoral vote (H. J. Res. 92)
Alabama	426,120		11	149,231	0.350	3.850	275,075	0.646	7.106	1,814	0.004	0.044
Arizona	280,570	4		152,042	.583	2.332	108,528	.417	1.168			
Arkansas	404,800		8	177,155	.438	3.504	226,300	.559	4.472	1,345	.003	.024
California	5,141,849	32		2,897,310	.563	18.016	2,197,548	.427	13.664	46,991	.009	.288
Colorado	630,103	6		379,782	.603	3.618	245,504	.390	2.340	4,817	.008	.048
Connecticut	1,096,911	8		611,012	.557	4.456	481,649	.439	3.512	4,250	.004	.032
Delaware	174,025	3		90,059	.517	1.551	83,315	.479	1.437	651	.004	.012
Florida	969,337	10		544,036	.550	5.500	444,950	.450	4.500	351	.000	.000
Georgia	655,803		12	198,979	.303	3.636	456,823	.697	8.364	1	.000	.000
Idaho	276,231	4		180,707	.654	2.616	95,081	.344	1.376	443	.002	.008
Illinois	4,481,058	27		2,457,327	.548	14 796	2,013,920	.449	12 123	9,811	.002	.054
Indiana	1,955,325	13		1,136,259	.581	7.553	801,530	.410	5.330	17,536	.009	.117
Iowa	1,388,773	10		808,906	.637	6.370	451,513	.356	3.560	6,354	.007	.070
Kansas	896,166	8		616,302	.688	5.504	273,296	.305	2.440	6,568	.007	.056
Kentucky	983,148		10	495,029	.498	4.980	485,729	.499	4.990	2,390	.002	.020
Louisiana	651,952		10	308,925	.471	4.710	345,027	.529	5.290			
Maine	351,786	5		232,353	.660	3.300	118,806	.338	1.690	627	.002	.010
Maryland	902,074	9		499,424	.554	4.986	395,337	.438	3.942	7,313	.008	.072
Massachusetts	2,393,398	16		1,292,325	.542	8.672	1,083,725	.455	7.280	4,548	.003	.048
Michigan	2,798,592	20		1,551,529	.554	11 080	1,230,657	.440	8.800	16,406	.006	.120
Minnesota	1,379,483	11		763,211	.553	6.083	608,458	.441	4.851	7,814	.006	.066
Mississippi	285,332		8				172,566	.604	4.832	[2] 112,966	.396	3.168
Missouri	1,892,062	13		959,429	.507	6.591	929,830	.491	6.383	2,803	.001	.013
Montana	265,037	4		157,394	.594	2 376	106,213	.401	1.604	1,430	.005	.020
Nebraska	609,660	6		421,603	.692	4 152	188,057	.308	1.848			
Nevada	82,190	3		50,502	.614	1.842	31,688	.386	1.158			
New Hampshire	272,950	4		166,287	.609	2.436	106,663	.391	1.564			
New Jersey	2,419,554	16		1,374,613	.568	9.088	1,015,902	.420	6.720	29,039	.012	.192
New Mexico	238,608	4		132,170	.554	2 216	105,661	.443	1.772	777	.003	.012
New York	7,128,241	45		3,952,815	.554	24 920	[3] 3,164,601	.436	19.620	10,825	.010	.450
North Carolina	1,210,910		14	558,107	.461	6.454	652,803	.539	7.546			
North Dakota	270,127	4		191,712	.710	2.840	76,694	.284	1.136	1,721	.006	.024
Ohio	3,700,758	25		2,100,456	.568	14 200	1,600,302	.432	10.800			
Oklahoma	948,984	8		518,045	.546	4.368	430,939	.454	3.632			
Oregon	695,059	6		420,815	.605	3.630	270,579	.389	2.334	3,665	.005	.030
Pennsylvania	4,580,717	32		2,415,789	.527	16.864	2,146,289	.469	15.008	18,639	.004	.128
Rhode Island	414,498	4		210,935	.509	2.026	203,293	.490	1 960	270	.001	.004
South Carolina	341,086		8	9,793	.029	.232	173,004	.507	4.056	[4] 158,289	.464	3.712

See footnotes at end of table.

Apportionment of electoral college votes on the basis of the popular vote, presidential election of 1952 (as provided in H. J. Res. 92, 83d Cong., 1 st sess.)—Continued

State	Total popular vote	Electoral vote		Republican			Democratic			Other		
		Republican	Democratic	Popular vote	Proportion of total	Electoral vote (H. J. Res. 92)	Popular vote	Proportion of total	Electoral vote (H. J. Res. 92)	Popular vote	Proportion of total	Electoral vote (H. J. Res. 92)
South Dakota	294,283	4	.....	203,857	0.693	2.772	90,426	0.307	1.228	.....	.....	.....
Tennessee	892,553	11	.....	446,147	.500	5.500	443,710	.497	5.467	2,696	0.003	0.033
Texas	2,076,006	24	.....	1,102,878	.531	12.744	969,288	.467	11.208	3,840	.002	.048
Utah	329,554	4	.....	194,120	.589	2.356	135,364	.411	1.644	.....	.....	.....
Vermont	153,539	3	.....	109,717	.715	2.145	43,355	.282	.846	467	.003	.009
Virginia	619,689	12	.....	349,037	.563	6.756	268,677	.434	5.208	1,975	.003	.036
Washington	1,102,708	9	.....	599,107	.543	4.887	492,845	.447	4.023	10,756	.010	.090
West Virginia	873,548	.....	8	419,970	.481	3.848	453,578	.519	4.152	.....	.....	.....
Wisconsin	1,607,370	12	.....	979,744	.610	7.320	622,175	.387	4.644	5,451	.003	.036
Wyoming	129,251	3	.....	81,047	.627	1.881	47,934	.371	1.113	270	.002	.006
Total obtained by adding the data in column above[4]	61,551,978	442	89	33,666,062	.....	281.577	27,314,987	.....	240.241	570,929	.....	9.100
Total obtained by calculations based on national totals only[5]	61,551,978	531		33,666,062	.547	290.457	27,314,987	.444	235.764	570,929	.009	4.779

[1] Includes 416,711 Liberal Party votes.
[2] Independent votes pledged to Republican candidates.
[3] Separate set of electors, by petition for Republican candidates.
[4] The data have been computed in accordance with the formula in H. J. Res. 92.
[5] The data are included to indicate the difference if the total national vote is used as a basis.

Source: Statistics of the Presidential and Congressional Election of Nov. 4, 1952. Washington, U. S. Government Printing Office, 1953, pp. 51–52. H. S. Bisco, Legislative Reference Service, Library of Congress, Aug. 27, 1953.

The CHAIRMAN. We will place in the record this copy of Human Events, dated December 10, 1952, and several articles and letters submitted by Representative Coudert, of New York.

(The documents referred to are as follows:)

[From Human Events, vol. IX, No. 50, Dec. 10, 1952

ELECTORAL REFORM—THE COUDERT AMENDMENT

By J. Harvie Williams

Two significant facts of first importance underline current headlines—the election of a President and Vice President next Monday and a proposed change in the system of election to those high offices which, if adopted, will produce a revolutionary effect on American politics for years to come.

On Monday next, the 15th, Dwight D. Eisenhower and Richard M. Nixon will be elected, respectively, President and Vice President of the United States. On that day "the first Monday after the second Wednesday in December," according to law under the Constitution, the electors who were elected last November 4 will meet "in their respective States" and "vote by ballot for President and Vice President." This event occurs as clamor for reform of the so-called electoral college mounts. One reform amendment to the Constitution passed the Senate in the 81st Congress, only to be killed in the House. Rising discussion and agitation suggest that the next session of Congress may see a major operation on the electoral process.

Congressman Frederic R. Coudert, Jr., of New York's 17th District, in the past week has announced that he will urge a constitutional amendment to rectify the inadequacies of the present system of electing electors—and therefore of electing Presidents.

Mr. Coudert unveils his proposal (which undoubtedly will be the principal plan to be considered by Congress) with too much modesty. Actually, what he proposes is, in effect, a revolutionary change in the method of choosing Presidents. For, it will eliminate the overweighted predominance of the big-city States in this process—a predominance which has enabled the New and Fair Deals to run the country despite the opposition of a substantial majority of the people. In short, Mr. Coudert proposes to return the power to all of the people, by properly dividing it among them.

The political problem to be solved was described to the House Judiciary Committee by Dr. Ruth C. Silva, associate professor of political science at Pennsylvania State College, in this way:

"In recent years the general ticket system of choosing presidential electors (that is, electing them in a bloc on the State-wide ticket) has compelled both parties to nominate presidential candidates who advocate policies designed to win the votes of conscious ethnic, religious, and economic groups in metropolitan centers, where these minorities hold the balance of power in populous States with large blocs of electoral votes. * * * On the other hand, the Congress is elected in a constituency that makes congressional support for such a program unlikely, for a majority of Senators and Representatives are elected in smaller cities, towns, suburban, and rural areas."

The present at-large system of electing electors is in effect the unit rule of State delegations in Democratic conventions. Describing the latter's use from experience, Senator Harry F. Byrd said, "under the unit rule, it is possible * * * for an actual minority to control nominations." He added: "The unit rule gives great power to the big-city machines such as those in the populous areas of New York, Pennsylvania, Illinois, and California."

To solve this problem Mr. Coudert proposes that electors, who correspond to Senators and Representatives, be chosen in the same way their counterparts in Congress are chosen. Under this plan 2 electors in each State, corresponding to its Senators, would be elected at large; and the remainder, corresponding to its Members of the House (which range among States from 1 to 43, according to population), would be elected in congressional districts, or at large in those few cases where Congressmen are so elected. Chosen by this method—the district system—the whole body of electors would bear a political complexion almost identical to that of a whole Congress sitting in joint session. Any President so chosen would have to look for reelection to exactly the same form of constituency as that of the whole Congress.

The district system for electors had distinguished support in the early days of our country. It was "the mode which was mostly, if not exclusively, in view

when the Constitution was framed and adopted," according to Lucius Wilmerding, Jr., in Political Science Quarterly of March 1949. "It was also the mode," he adds, "which was advocated after some experience with the Constitution by Hamilton, Jefferson, Madison, Gallatin, James A. Bayard, J. Q. Adams, Van Buren, Benton, Webster, Story, and many others."

The necessity for presidential electors is firmly rooted in the very form and structure of the American political system. The constitutional provision for the institution of electors does two supremely important things:

1. By excluding Senators and Representatives from the office of elector, it separates executive and legislative powers at the source, a cardinal principle of the American political system;

2. By establishing electors in exact correspondence to Senators and Representatives, the whole body of them—in the election of the President—combine the Federal-national principles on which American Government is founded. That is, equality of the States in the Senate and inequality of the States in the House of Representatives according to inequalities of population.

However, by failing to provide a uniform method for choosing electors, the founders left the opening into which others have driven the wedge of the present at-large method of choosing them. It was this failure, through oversight, lack of foresight, or political infeasibility at the time, which has permitted the unbalancing of the carefully balanced and neatly articulated political system they built for us.

During the early days of the Republic the electors were chosen in a variety of ways. Sometimes by the legislatures, sometimes at large, but most often under the district system. However, the at large or general ticket system for electors spread rapidly with the rise of the party system in the early 1800's—an unforeseen development. Political leaders of the dominant party in the legislatures forced the change in order to control the State's full power in electing the President. The more power they could wield in his election the more influence they could exert on his administration. And so it has remained to this day.

Adoption of the Coudert amendment would change the inequitable system now used and would have the following revolutionary but beneficial political effects:

1. Divide each State's power in the election of a President among its political parties on exactly the same basis that its congressional power is divided among them. Thus national parties would have Presidential power commensurate with their congressional power—an ideal situation.

2. Remove the ideological grounds for any conflict between the President and Congress by reducing the power of pressure groups over the White House to the level of their weight in the election of the Congress. With the same form of constituency, the President and the Congress would wear much the same political complexion.

3. Give to both large and small States their proper weight, properly divided between their parties, in the election of a President.

4. Break up the large bloc of electoral votes of the big-city States which, because they exist and turn on statewide pluralities, now dominate the nomination of candidates for the Presidency. Also make eligible for nomination qualified men from the smaller States. For instance, the division of New York's 45 electoral votes would be close to 50-50.

The major effect of the Coudert amendment would be on the conduct of the Presidency. The change it would bring in the source and quantity of his political nourishment would necessarily affect the political attitudes of any President or would-be President. At the present time the 531 political roots (electors) of the White House are consolidated into what might be called "trunk roots," varying in size from 3 diameters to 45 (Nevada has 3 electoral votes, New York 45).

Nine of the largest of these trunk roots run from States having metropolitan cities of more than a half-million people and have a total of 204 diameters (electors) of the 531, or just 62 less than the 266 necessary for a President to survive politically. With so much nourishment from so few sources, any President would regard them with great tenderness (certainly, Roosevelt felt this way about New York). To do otherwise, would be to violate the first principle of political action—to win office and keep it.

The Condert amendment would merely unbind the trunk roots to the White House and liberate the members to their natural equality. Ninety-six of them would run 2 each (i. e., the 2 electors chosen at large) from each of the 48

States. The nourishment these would bring would remain unchanged in quality from that which they now bring as members of the trunk roots. The other 435 political roots of the Presidency would run 1 each from the congressional districts.

The political nourishment these separated roots would bring to the White House would vary considerably from that which arose in the trunk roots of which they were members. With each of them dependent on a voting plurality at its own source—the congressional district—the change in quality would be substantial, to say the least.

Thus, the roots of the White House, paralleling those of the Congress, would provide the President with the same political nourishment on which the Members of Congress have to subsist in order to stay in office. He, necessarily, would have to live politically as their majorities live. The new diet would not contain any imported left-wing vitamins.

With the electoral power of the big-city States divided between the parties, the nominating conventions would differ sharply from those witnessed by the television watchers last summer. They would see conventions reach conclusions under the influence of leaders with followers rather than at the dictation of bosses with minions.

In presidential campaigns under the Coudert amendment, both parties would aim at winning somewhat more than half of the State electors and a majority of the district electors. The doubtful districts are far more numerous, diversified, and widely scattered than the doubtful States, and would be the principal objectives of campaign strategists. No longer would New York be the sine qua non of party victory.

In conclusion, it would not be too much to predict that future presidential elections held under this reformed system would ensure the triumph of truly American tickets for many years to come. Indeed one prophesy may safely be ventured: Under such a system, there would loom no danger that Mr. Walter Reuther, head of CIO and already mentioned as a possible contender, could be elected President.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., August 4, 1953.

Hon. WILLIAM LANGER,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I shall appreciate it if the following may be included in the record of your committee hearings on electoral college reform:

Series of three articles by Walter Lippmann
Letter by Dr. Edward S. Corwin
Article by Lucius M. Wilmerding, Jr.
Letter by J. Harvie Williams
Article by Felix Morley
Analysis by J. Harvie Williams
Two articles by Arthur Krock
Editorial, Richmond News Leader
Study by Dr. Ruth C. Silva

Very faithfully yours,

F. R. COUDERT, Jr.

ELECTING A PRESIDENT

(Extension of remarks of Hon. Frederic R. Coudert, Jr., of New York, in the House of Representatives, Wednesday, March 22, 1950)

Mr. COUDERT. Mr. Speaker, under leave to extend my remarks, I include a series of three articles by Mr. Walter Lippmann, which appeared in the New York Herald Tribune the week of March 6, 1950:

[From the New York Herald Tribune of March 6, 1950]

TODAY AND TOMORROW

(By Walter Lippmann)

ELECTING A PRESIDENT—I

The proposed amendment would make several changes in the method of electing the President and the Vice President. One would abolish the electoral college and the presidential electors. But this does not mean that the President

would be elected directly by popular vote. The essence of the existing system is retained: The choice would still be made by electoral votes, each State being entitled as now to as many electoral votes as it has Representatives and Senators combined.

Standing by itself, this change is of little importance.

A second provision would make the election definitive if a candidate has a plurality of at least 40 percent of the total electoral vote. At present, under the 12th amendment, there is no election unless the candidate has a majority, and the choice is then thrown into the House.

The proposed amendment would reduce to an acceptable minimum the chance that the choice would not be decided in the popular election, and that the country would face the risk of a prolonged uncertainty while the House of Representatives elected a President.

The third provision deals with the situation that would arise if no candidate had a plurality of 40 percent and the election were thrown into the House. Under the 12th amendment the vote in the House is by the unit rule. That is to say, each State casts one vote. This is obviously unfair to the larger States. The Lodge-Gosset amendment would have the President and the Vice President chosen from the 2 leading candidates by a majority of the 2 Houses sitting in a joint session.

This is an improvement on the 12th amendment and, so far as we know, no serious objection to it has been raised by anyone. It should be noted, however, that no provision is made for the case where two candidates are tied with more than 40 percent of the electoral vote.

But the fourth provision, which is the heart of the amendment, is very important and very controversial.

Under the existing system, which rests on State laws and on custom but not on the Constitution itself, all the electoral votes in each State are cast for the candidate who obtains a plurality of the popular vote in that Stae. This arrangement is known as the general ticket system. It was almost certainly never contemplated by the men who framed the Constitution. It was introduced by political leaders in some of the States to increase their own power, and as early as 1824 Senator Benton attacked it, saying that it was contrary to the intent of the Constitution that each State should have a consolidated vote rather than each elector a separate vote.

The disadvantages of the general ticket system are many and they are serious. The Lodge-Gossett amendment is designed to remedy them. We believe, however, that the remedy is not the right remedy—that it has disadvantages at least as great, and probably greater, than those which it would remove, and that there is a better remedy. We dislike having to differ with Senator Lodge, since we are in complete sympathy with his purposes. The reason we have to differ with him is that we are opposed to any recognition of the principle of proportional representation in the American system of government. We believe that it is the fatal error of European democratic constitutions, the great cause of their worst difficulties, and we think it no exaggeration to say that if the principle of proportional representation were introduced here, it would end by destroying the stability of the Government.

Senator Lodge would, we know, object as strongly as we do to proportional representation in the legislative branch of the Government. But he believes, and we do not, that it could be introduced into the system of electing the President without any serious danger that it would then spread to the legislature.

In our succeeding articles we shall go into this more precisely in order to show, first, why Senator Lodge is right that the present general ticket system should be reformed—and second, why we think proportional representation is the wrong remedy and what the better remedy is.

[From the New York Herald Tribune of March 7, 1950]

TODAY AND TOMORROW

(By Walter Lippmann)

ELECTING A PRESIDENT—II

We shall now discuss the disadvantages of the present general ticket system—that is to say the system by which all the electoral votes of the State are cast as a unit for the candidate who obtains a plurality of the popular vote.

This system allows a much greater weight to the pluralities in large States than they are entitled to on the basis of numbers. Suppose, to make the mathematics simple, that the Union consisted of only 2 States, New York with 47 electoral votes and Mississippi with 9. Suppose further that if the votes were cast by districts—in the same manner that Representatives are chosen—the Democrats got 23 in New York and 8 in Mississippi, the Republicans 24 in New York and 1 in Mississippi. In such a case it would be quite clear that the majority of the people in the two States combined had elected the Democrats by a vote of 31 to 25. Yet under the general ticket system the Republican would be declared President by a vote of 47 to 9. This cannot be fair.

Furthermore, the system permits the most important event in our political process—the election of a President—to be determined by small and local caucuses. It puts a premium on accident. It puts a premium on fraud. It exaggerates the power of splinter parties. It exaggerates the power of special interests. It make it possible for a State minority, rather than a State majority, to capture the whole vote of the State, and so perhaps to swing the whole election.

The system puts a premium on accident because any casual event—a rainy day in the rural districts, for example—may keep the voters of the State majority at home and swing the whole vote of the State to the voters of the minority. It is well known that bad weather affects urban voters less than rural voters and the two are commonly in different political parties.

The system puts a premium on fraud because by purchasing or fabricating a comparatively few votes in order to turn a popular minority into an apparent plurality, the whole electoral vote of the State can be had. In close elections in big States the temptation is very great.

Thus to use an example which will not offend anyone at the moment, we know that in 1868 Boss Tweed manufactured a Democratic majority for the whole State of New York by fraud in the city of New York. This gave Seymour instead of Grant the 33 electoral votes of New York State. A local fraud determined the position of the whole State. In 1868 this fraud did not decide the choice of the President. In a close election it could have done that.

The present system exaggerates beyond all reason the power of splinter parties. This in the 1948 election the supporters of Henry Wallace held the balance of power in New York State between Truman and Dewey, and they were able to throw 47 electoral votes to Dewey. Wallace polled 509,000 votes. Dewey's plurality over Truman was 61,000 votes.

The system also exaggerates most undesirably the power of special interests in that a small shift of votes makes such a big difference in the electoral vote. In the election of 1888 Harrison carried the large States by small pluralities and lost the small States by large pluralities. Due to the mechanism of the system, a deficit of 90,000 popular votes was turned into a winning surplus of 65 electoral votes.

The present system, moreover, exercises a strong tendency to limit effective participation in democratic elections to the doubtful States—to make a considerable number of States—that is to say the sure States—so politically inactive that in fact the two-party system does not really operate. In the selection of presidential candidates, in the appeal to public opinion, political managers fix their attention on the large and doubtful States, ignoring those which are small or sure. In the solid South few Republicans bother to vote. For they know that their votes will be lost. Nor do many Democrats go to the polls. For they know that their votes are not needed. In these States a very considerable number of electoral votes are controlled by a very few persons. Such an abdication of individual political power and responsibility by the voters cannot be a good thing in a democratic society. But it is the consequence of politics played under the rules of the game set by the general ticket system.

At first blush it might seem that the obvious remedy would be to abolish the whole electoral voting system and to leave the choice to a plurality of the people voting at large. But such a reform could not pass the Senate.

It could not pass the Senate because the present electoral voting system, by giving to each State a bonus of two votes regardless of size, works to the advantage of the small States. They will never renounce this advantage, which they regard as a genuine and desirable element of the Constitution in its intention to protect them from the absolute power of the large States.

It ought not to pass because it is a sounder rule than the relative weight of communities in the electoral process should be proportional to their total population—voters and nonvoters alike—rather than to the number of their actual voters.

Furthermore, if the President were elected by the people at large all the evils which we have mentioned in connection with the general ticket system—accident, fraud, and so forth—would appear in aggravated form because they would not stop at State lines. In addition, States would be under an inducement to compete with each other in lowering their voting qualifications. In Georgia, for example, children of 18 can vote; other States would soon follow or better the example. And in the end the Federal Government would have to step in and fix uniform voting qualifications, itself an undesirable result.

Yet the disadvantages and evils of the general ticket system ought to be dealt with. The question is how.

To the Founding Fathers and to many of the statesmen who came after them—to Hamilton, Jefferson, Madison, Gallatin, James A. Bayard, John Quincy Adams, Van Buren, Benton, Webster, Story, and many others—the district system was clearly the most satisfactory remedy. This is the system supported by Representative Frederic R. Coudert, Jr., of New York, which he is offering as a substitute to the Lodge-Gossett amendment.

This district system, in the form which Mr. Coudert seems to have in mind, would divide each State into as many similar districts as there are Representatives in the House. In addition, there would be two State-wide districts. The choice of a plurality of the people of each district would count as one electoral vote for the President. The choice of the people of the State as a whole would determine the other two electoral votes of the State. Thus, all but two of the electors of each State would be chosen by pluralities in a district and would be unaffected by the plurality elsewhere in the State.

The district system, as we learn from Madison, was mostly, if not exclusively, in view when the Constitution was framed and adopted. It was supplanted by the general ticket system now in use as the only expedient for baffling the policy of the particular States which had set the example, that is to say, had adopted the general ticket system. It was a case of a bad system driving out a better one. For the district system in one State cannot exist in competition with the general ticket in another State. The State which operates under a general ticket system will then exercise more weight in the electoral vote than it deserves. Therefore the only way that the district system can be restored is by constitutional amendment which would prevent any State from adopting the general ticket system.

In our view the district system is a better remedy than the Lodge amendment and it should be restored. Our reason for preferring this system, which is contemplated in the Coudert substitute for the Lodge-Gossett amendment, rests on our objection to the principle of proportional representation. We shall discuss that in the third and concluding article of this series.

[From the New York Herald Tribune]

TODAY AND TOMORROW

(By Walter Lippmann)

ELECTING A PRESIDENT—III

We shall now discuss that part of the Lodge-Gossett amendment which employs the principle of proportional representation showing why we believe that the district system, as intended by the framers of the Constitution, is preferable. We realize that not for many years has the district system been considered seriously in Congress. But the reason, we think, is that American reformers were so strongly influenced after the middle of the 19th century by John Stuart Mill's advocacy of proportional representation.

The apparent fairness of the principle of proportional representation hid the grave dangers and defects of that principle. The Lodge-Gossett amendment is based on that principle.

It does away with the State electoral colleges, but it keeps the State electoral votes. These it distributes among the several candidates for President on the principle of proportion. Thus a candidate who receives 42.5 percent of the popular vote of a State would earn 42.5 percent of its electoral vote, etc., etc. The calculations in the Lodge-Gossett amendment are to be carried to three decimal places in an attempt to achieve mathematical accuracy.

The merits of this system are very easy to see. It gives to every political grouping of voters in the national election a weight as nearly proportional to its

mass as the present unequal electoral weighting of the States permits. It avoids the seizure of minority votes by majorities. That is to say the arrangement, for example, by which in 1948 the 2,780,000 votes cast for Truman in New York were counted in the electoral college for Dewey, and the 1,960,000 votes cast for Dewey in Illinois were counted for Truman in the electoral college.

Moreover, the proposed method reduces the size of the electoral swings which may be caused by accident, fraud, or the power of minor parties. In large measure it destroys the political advantages of the large doubtful States. It would revive political activity in the sure States.

Its demerits are not so obvious. And yet we think they exist. They can best be brought out by comparing the Lodge-Gossett amendment with its alternative—the district system.

Let us consider how the two systems would probably work in practice. Under the district system accidents will generally have no effect upon the result of a national election. Bad weather keeps voters home in one district; local issues bring them out in another. But Democrats and Republicans are equally affected by the accidents; district results as a whole are not substantially changed. Each district casts its single vote as it would have cast it had the weather been clear and the issues normal. Under the proportional system the accident is reflected in the distribution of the State's electoral vote and eventually in the nationwide electoral vote. So with fraud. Under the district system a manufactured vote can affect only the district in which it is cast. If the candidate on whose behalf it was manufactured carries the district without its help or if he fails to carry the district, the effect is nil; in other cases, the fraud will swing on electoral vote. But under the proportional system, a manufactured vote is always reflected in the distribution of the electoral vote and its effect is limited only by the size of the fraud.

This brings us to our main objection to the Lodge-Gossett amendment, to our main reason for preferring the district system amendment. We believe that if the system of proportional representation is applied to the presidential electors, or, what comes to the same thing, to the presidential electoral vote, that it will eventually be applied to the Representatives in Congress. And such a result is, we think, to be avoided at all costs—even at that of retaining the obnoxious general ticket system which we now have.

For by applying the principle of proportional representation to electoral votes the Lodge-Gossett amendment would provide a precedent, and, as Senator Ferguson has remarked, no one needs to be told the importance of precedent in democratic government. It will be difficult to explain to a vigorous minority why it is entitled to a third, let us say, of a State's electoral votes and yet is not entitled to a third of its votes in the House of Representatives. In the 1948 election, for example, Wallace got 2.4 percent of the popular vote. Under the Lodge-Gossett amendment he would have been credited with 1.9 percent of the electoral vote. If such a system were in effect, it would be very difficult to explain to the followers of a Wallace that their votes were entitled to proportional representation in the electoral vote but that they were not entitled to proportional representation in the House.

This is more than a theoretical danger. The establishment of proportional representation in the congressional delegations might come about in one of two ways. It could be introduced piecemeal by the legislatures of the several States. Section 3 of the Apportionment Act of 1911, prescribing that Representatives in all States shall be elected on the single-member district system, is no longer on the statute books. It was declared by the Supreme Court in 1932 to have expired by its own limitation with the apportionment to which it related. Congress has never reenacted the provision.

Proportional representation might also be introduced in the House of Representatives by Congress itself. Suppose that the general ticket system for Representatives should come to be established by the State legislatures as the ordinary method of choosing Representatives—that is to say suppose Congressmen came to be elected at large rather than by districts. The evils following on this change would soon give rise to a movement for reform. Congress would be called upon to exercise its original and concurrent power to make or alter the State regulations in regard to the manner of holding elections for Representatives. With the example of the Lodge-Gossett amendment before it, it might plump for the system of proportional representation.

This contingency is not so remote as it might seem. Some States now use the general ticket system to choose Representatives and others have experimented with it from time to time.

The evils of proportional representation are, one, that it destroys the two-party system and substitutes for it a many-party system. This has happened everywhere that the principle has been applied and is one of the chief causes of the instability of democratic government in countries like France.

The second evil is closely related to it. The effect of proportional representation is to fill the legislature with men who are immoderate and uncompromising. For under proportional representation the constituents of a Representative are not the people living in a geographical area but an abstract group of voters who all think alike. A Representative does not have to consider those who may differ with him. He is merely the delegate of those who think alike. Therefore, he is not predisposed to moderate views and to compromises but to irreconcilability and extremism.

Moreover, under the proportional system the constituency of each Representative is mathematical rather than geographical, abstract rather than personal. The Representative does not know what actual persons he represents. Therefore his election is controlled by the party managers who really appoint him to represent the mathematical constituencies that the principle of proportional representation creates. And what the party managers will, therefore, look for in him is not thought but obedience. Anyone who has observed parliamentary government in a country where proportional representation exists will realize how in practice this works out.

We regard these objections to the Lodge-Gossett amendment as sufficient to justify its rejection. We believe that the district system, as contemplated in the Coudert substitute, is not open to these objections and that it will cure all the evils of the present system quite as well as the Lodge-Gossett amendment.

CHOOSING A PRESIDENT

(Extension of remarks of Hon. Frederic R. Coudert, Jr., of New York, in the House of Representatives, Monday, February 6, 1950)

Mr. COUDERT. Mr. Speaker, under leave to extend my remarks, I wish to insert in the Record an exceedingly interesting and enlightening letter in the Sunday New York Times by a distinguished Princeton professor of history and constitutional law, Dr. Edward S. Corwin, concerning reform of the electoral-college system.

CHOOSING A PRESIDENT—SHORTCOMINGS SEEN IN PROPOSAL TO REFORM ELECTORAL SYSTEM

(The writer of the following letter is McCormick professor of jurisprudence, emeritus, at Princeton University. He is at present an editor in the Legislative Reference Bureau of the Library of Congress, directing a project in international law.)

To the EDITOR OF THE NEW YORK TIMES:

Congress is at last seriously considering the Lodge-Gossett joint resolution to reform the present constitutional machinery for choosing a President. There are some commendable features to the proposal, but there are some which, in the opinion of this writer, might lead to undesirable results.

The word "elector" means one who has the power to elect; that is, one who exercises a choice. Save for two or three instances when their doing so made not the least difference in the world even to themselves, no presidential elector has ever exercised the smallest conceivable particle of independent judgment in the casting of his vote for a President of the United States.

In the first two elections George Washington was the universal choice of the American citizenry. Since that time electors have been party stooges taking their orders from the party higher-ups. The proposal to abolish the college, so-called, which is one feature of the pending joint resolution is, therefore, considered for itself alone, not open to serious criticism. By the same token, the adoption of this feature of the proposal would of itself make no practical difference.

PRESENT METHOD

Nor, on the other hand, is the effort to get rid of the present method for determining a presidential contest in which no candidate has received a majority in the electoral college open to important challenge. In that event the House

of Representatives, voting by States, today chooses from among the three top contestants in the college.

For its negative features alone the Lodge-Gossett proposal—which, in the main, only repeats several previous ones—is not open to important adverse criticism. But how about its positive features? These are three in number: First, while the electoral college is abolished, each State remains an electoral unit; and, as such, is entitled to the same electoral vote as before in the choice of a President; secondly, this electoral vote is to be divided in each State among the political parties which are recognized by it, in proportion to their popular vote for President; thirdly, a plurality of electoral votes suffices to choose a President.

What the proposal does, therefore, is to apply the principle of proportional representation in the election of President; and this, it is objected, favors the rise of splinter parties, a tendency which the provision that a President may be chosen by a mere plurality of electoral votes will further encourage.

TENDENCY TO INSTABILITY

What is more, it is argued, once introduced into our system, the proportional representation principle may be adapted to the choice of Representatives, which could easily be done by requiring that Representatives be chosen, not by districts, as at present, but as they once were in some of the States, on statewide tickets. And, the argument proceeds, splinter parties, being pressure-group parties, are inveterate foes both of political moderation and—since their tendency is to regroup—of political stability, lessons with which the annals of parliamentary government on the Continent of Europe are replete.

This argument certainly has some force. At the same time, it must be recollected that splinter parties are by no means beyond the realm of possibility under the present system, as was shown in the last election.

What, however, are the chief advantages that the sponsors of the Lodge-Gossett proposal urge for it Aside from the fact that it would eliminate the participation of the House of Representatives in the choice of a President when no candidate has an electoral majority, there appear to be two. The first is that under the proposed amendment electoral strength would directly reflect popular strength, whereas under the present system the successful candidate in the electoral college may have been the choice of a minority of the voters.

The argument seems to me to have little weight. It is true that when a strong third party has appeared on the scene a majority in the electoral college has been backed by only a plurality of the voters. But this fact hardly constitutes an argument for the Lodge-Gossett proposal, which provides in terms for plurality Presidents.

EFFECT OF STATEWIDE TICKETS

The other argument for the Lodge-Gossett proposal is weightier, although the fact that makes it so is probably an illegitimate feature of the present system. Owing to the now well-established practice of choosing presidential electors on statewide tickets the entire electoral vote of, say, New York may be swung for the Republican candidate by a few hundred votes, while the heavy Democratic vote in New York would count as nothing toward the choice of President.

One consequence of this is that in the so-called one-party States no effort is made by the other parties to educate the electorate in their various points of view, whereas under the Lodge-Gossett proposal there would be every inducement for minority parties in a State to roll up as big a vote as possible, since this would be converted automatically into electoral strength. But this desirable result could, it seems to me, be achieved, or at least approximated, much more simply, namely, by doing away with the statewide ticket system and instituting in its place the choice of electors by districts, which—if we are to believe Madison—was the system the framers had in mind, and which was in fact employed in several of the States in early days.

CHOICE BY DISTRICTS

It is my own belief regarding reform of the electoral system, first, that, ridiculous as it is in some aspects, the electoral college, so-called, should be retained, but that its members should be chosen in districts, to be laid out by Congress every 10 years; secondly, that the requirement that the President receive a majority of electoral votes, should be retained; thirdly, that when any candidate fails to receive such a majority, the House of Representatives should choose, as

at present, except for the important change that it vote per capita and not per State.

A President thus chosen would come near at least to being the people's choice and, moreover, would probably be guaranteed at the outset of his term a House of the same political complexion as himself.

Presidential influence has become the most prominent, the most dominant, element of our constitutional system, and this fact of itself forbids the idea of our instituting a system of presidential election which might make plurality Presidents the rule rather than the exception. It also forbids the idea of supplanting geographical parties with pressure-group parties which a President can at any time wheel into action to do battle for his pet schemes provided he concedes them theirs. The proposal is careless of both these dangers.

EDWARD S. CORWIN.

PRINCETON, N. J., *January 31, 1950.*

NEEDED REFORM OF OUR ELECTORAL SYSTEM

(Extension of remarks of Hon. Frederic R. Coudert, Jr., of New York, in the House of Representatives, Monday, February 6, 1950)

Mr. COUDERT. Mr. Speaker, under leave to extend my remarks, I wish to insert an exceedingly valuable contribution to the debate about proposed changes in the method of electing Presidents. It is by a distinguished Princeton scholar, Lucius Wilmerding, Jr. It will well repay the reading by Members of the House and others vitally interested in this question. The article appears in the March 1949 issue of the Political Science Quarterly.

REFORM OF THE ELECTORAL SYSTEM

INTRODUCTION

It is my purpose in this article to examine those features of our electoral system which have been singled out for reform in the amendment to the Constitution recently proposed by Senator Lodge and now under public debate.[1] I must begin, however, by pointing out and commenting upon two things which the Lodge amendment does not do, but in respect of which there has been much popular misconception.

In the first place the Lodge amendment does not provide for a direct election of the President of the United States by the people at large. The intermediate electors are abolished, but the electoral vote is retained. This means that it would still be possible for a candidate receiving a minority of the popular vote to receive a majority of the electoral vote. Take 2 States each having 24 electoral votes, and assume that 4 million popular votes are cast in one, 2.4 million in the other. In State A the Republican receives three-fourths of the popular vote, the Democrat one-fourth; in State B the Republican receives one-eighth, the Democrat seven-eighths. The popular vote in the 2 States together is 3.3 million for the Republican, 3.1 million for the Democrat. But under the Lodge amendment—which provides for prorating the electoral votes of each State between the candidates in proportion to their popular votes therein—the Democrat is credited with 27 electoral votes to the Republican's 21. The proportional voting system may therefore reflect the nationwide popular vote even less accurately than the currently used general ticket (winner-take-all) system, under which in the given case the 2 candidates would be credited with 24 electoral votes apiece.

In the second place the Lodge amendment does not get rid of the present unequal weighting of the electoral vote in favor of the small States. Each State will continue to have the number of electoral votes to which its population entitles it, plus 2. Vermont, entitled to 1 vote, will still have 3; New York, entitled to 45 votes, will still have 47. This means that, other things being equal, a voter in Vermont will still have the weight of almost 3 voters in New York.

These facts being understood, it may be asked why Senator Lodge's amendment should not be criticized on the ground that it does not sweep away the whole system of electoral voting and substitute a system of nationwide popular voting. The answer is complex but will probably satisfy most minds.

To begin with, a good case can be made for the proposition that each equal mass of persons (comprising voters and nonvoters alike) is entitled to an equal voice

[1] 81st Cong., 1st sess., S. J. Res. 2 (Jan. 5, 1949).

in the choice of a President. If the qualifications requisite for voting are higher in one mass than in another;[2] if, in order to express their disapproval of their party's policy, the voters in one mass stay away from the polls while those in another cast their ballots for opposition candidates; if local issues vary the proportions of the electorate voting in different masses; if stormy weather keeps more voters at home in rural areas than in urban areas—none of these is a valid reason for reducing the weight of the masses casting the fewer votes. The electoral vote may reflect the will of the people—of all the people not merely of the active voters—more correctly than the popular vote.

This argument, it is true, does not go to prove the propriety of allowing masses in small States a greater weight than equal masses in large States; and I, for one, regard it as a constitutional solecism that 1 mass in Delaware should count for as much as 3 in New York. It is frequently asserted, indeed, that the two extra votes allotted to each State are given to it on the "Federal principle" and reflect the equality of the States as corporate entities. But the alleged equality is a figment of the legal imagination, invented to justify what was in its origin a mere act of force. When the 13 States first associated themselves in the Continental Congress, each was given a single vote. The arrangement was intended to be temporary, however. As was pointed out by Benjamin Franklin in the Federal Convention, the method of voting by States—

"was submitted to originally by Congress, under a conviction of its impropriety, inequality, and injustice. This appears in the words of their resolution. It is of September 6, 1774. The words are: 'Resolved that in determining questions in this Congress each colony or province shall have one vote; the Congress not being possessed of or at present able to procure materials for ascertaining the importance of each colony.'"[3]

That force not principle was the controlling factor in the allotment of 2 Senators and 2 additional electors to each State will be plain to anyone who will bother to read the debates. Hamilton said:

"The truth is it is a contest for power, not for liberty. Will the men composing the small States be less free than those composing the larger? The State of Delaware having 40,000 souls will lose power, if she has [in the Senate] one-tenth only of the votes allotted to Pennsylvania having 400,000; but will the people of Delaware be less free, if each citizen has an equal vote with each citizen of Pennsylvania?"[4]

Paterson, of New Jersey, speaking for the small States admitted the charge:

"It was observed (by Mr. Wilson) that the larger State gave up the point [in the Continental Congress], not because it was right, but because the circumstances of the moment urged the concession. Be it so. Are they for that reason at liberty to take it back? Can the donor resume his gift without the consent of the donee?"[5]

The retention in the Lodge amendment of the unequal weighting of the electoral vote in favor of the small States cannot therefore be justified on grounds of justice. The reason for retaining it is expediency: No proposition could at the present time pass the Senate which would deprive the small States of their privileged position.

This same consideration, it is plain, also makes it useless to propose any scheme for electing the President by direct nationwide popular vote; for the continuance of the small States' privilege depends on the continuance of an electoral voting system. Senator Lodge is entirely right when he says that "to eliminate the credit given for Senators [that is, the two extra electoral votes], or to eliminate any electoral allotment to each State, would destroy any possibility at all of electoral reform."[6]

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[2] On July 25, 1787, in the Federal Convention, Madison, arguing that a choice of the President by the people or rather by the qualified part of them, was the best mode of appointment that could be devised, noticed the difficulty which arose from the disproportion of qualified voters in the Northern and Southern States, and the disadvantages which this mode would throw on the latter. In replying to this objection he remarked: "(1) That this disproportion would be continually decreasing under the influence of the republican laws introduced in the Southern States, and the more rapid increase of their population; (2) that local considerations must give way to the general interest. As an individual from the Southern States he was willing to make the sacrifice" (Max Farrand, ed., Records of the Federal Convention, II, 111). The acceptance of electoral voting made the sacrifice unnecessary.

[3] Ferrand, I, 200 (Franklin). For the remarks of Wilson, Gerry, Gouverneur Morris, and Madison condemning the equal vote of unequal States as improper and founded on coercion, see ibid., I, 166, 467, 552; II, 8.

[4] Ibid., I, 466.

[5] Ferrand, I, 250.

[6] See his letter of January 12, 1949, in the New York Times of January 18. In a letter to the author dated November 4, 1948, Senator Lodge indicated that he was personally in

So much for what the Lodge amendment does not do. Its positive proposals may be arranged under three heads. If adopted it would (1) require the electoral votes of each State to be divided between the several candidates for President in proportion to the popular votes cast for each within the State; (2) discontinue the use of intermediate electors; (3) discontinue the umpirage of the House of Representatives in all cases where no candidate has received a majority of the whole number of electoral votes, leaving a plurality sufficient to elect. Mutatis mutandis, it would do the same thing in respect of the Vice President.

THE MODE OF VOTING

Let us begin with a bit of history. The Constitution of the United States provides that each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; these electors are to meet in their respective States and vote for President and Vice President; and so on. In the early elections no uniform mode of appointing electors was followed. The three most usual modes were (1) election by the legislatures; (2) election by the people in districts; (3) election by the people on a general ticket. Of these only the third is at present practiced. According to Madison the district mode—which "was mostly, if not exclusively, in view when the Constitution was framed and adopted"—was "exchanged for the general ticket and the legislative election, as the only expedient for baffling the policy of the particular States which had set the example."[7] The legislative election—under attack from the beginning as violating the spirit and perhaps the letter of the Constitution—gave way to the general ticket in Jackson's time.

That the general ticket is an improper mode of election is not to be denied. Its evils were never better set out than by Senator Benton in 1824:

"The general ticket system, now existing in 10 States was the offspring of policy, and not of any disposition to give fair play to the will of the people. It was adopted by the leading men of those States, to enable them to consolidate the vote of the State. * * * It contributes to give power and consequence to the leaders who manage the elections, but it is a departure from the intention of the Constitution; violates the rights of minorities, and is attended with many other evils. The intention of the Constitution is violated, because it was the intention of that instrument, to give to each mass of persons, entitled to one elector, the power of giving that electoral vote to any candidate they preferred. The rights of minorities are violated, because a majority of one will carry the vote of the whole State * * *. In New York 36 electors are chosen; 19 is a majority, and the candidate receiving this majority is fairly entitled to count 19 votes; but he counts, in reality, 36; because the minority of 17 are added to the majority. These 17 votes belong to 17 masses of people, of 40,000 souls each, in all 680,000 people, whose votes are seized upon, taken away and presented to whom the majority pleases. * * * To lose their votes, is the fate of all minorities, and it is their duty to submit; but this is not a case of votes lost, but of votes taken away, added to those of the majority, and given to a person to whom the minority is opposed."[8]

Jefferson, it is true, may be quoted to the contrary. Defending in 1800 the action of Virginia in exchanging the district system for the general ticket, he declared that it was "merely a question whether we will divide the United States into 16 or 137 districts."[9] The reasoning is, however, fallacious. It would be valid only if the States were roughly equal in population and had each an equal number of electoral votes. Besides, as Jefferson himself knew, the number of districts is much more than a "mere" question. Madison, writing in 1823, pointed out:

"The States when voting for President by general tickets or by their legislatures are a string of beads; when they make their elections by districts, some of these differing in sentiment from others, and sympathising with that of districts

favor of a direct popular election of the President and Vice President, but he knew that such proposals had never made any headway in the past and he thought that they would make no headway in the future.

[7] Madison to Hay, August 23, 1823. Gaillard Hunt, ed., The Writings of James Madison (New York and London, 1910), IX, 151–152.

[8] 41 Annals of Congress, 169–170.

[9] Jefferson to Monroe, January 12, 1800. P. L. Ford, ed., The Works of Thomas Jefferson (New York and London, 1905), IX, 90–91. Jefferson's point was that it would be better for all the States to use the general ticket than for some to use it and others the district system: "All agree that an election by districts would be best, if it could be general; but while 10 States choose, either by their legislatures or by a general ticket, it is folly and worse than folly for the other 6 not to do it."

in other States, they are so knit together as to break the force of those geographical and other noxious parties which might render the repulsive too strong for the cohesive tendencies within the political system.[10]

Senator Lodge proposes to get rid of the evils of the general ticket by a mode which has often been advocated before: proportional voting, that is to say, the division of each State's electoral votes between the candidates in proportion to their popular votes. In 1912, for example, New York's 45 electoral votes, instead of all going to Wilson, would have been cast (to the nearest whole number) 19 for Wilson, 13 for Taft, 11 for Roosevelt, and 2 for Debs.

At first blush this might seem an eminently fair arrangement, and indeed there are probably few today who would not sympathize with the complaint of the Federalist minority of Virginia when the legislature of that State changed, in 1800, from the district mode to the general ticket: "We are apt to fancy ourselves called, as citizens of the United States, to vote for the highest officers of the Government. But the late assembly has separated us from our fellow citizens of the Union, and compels us to speak the voice of Virginia only."[11] Second thoughts, however, may lead us to believe that, though the object of the Lodge amendment is sound, its method is faulty.

I would point out, to begin with, that the principle upon which this amendment would divide a State's votes is the same as that which underlies the system of proportional representation—PR as it is briefly called. Carried to its logical extreme, it would require the creation of a plural executive (as recommended by Benjamin Franklin and others in the Federal Convention) in order that the several parties might share in it in proportion to their numbers. The reasoning is simple. If it is "unfair" for a candidate who has received 54 percent of the nationwide popular vote to receive 84 percent of the nationwide electoral vote, why it is not even more unfair for him to receive 100 percent of the prize?

It is, to be sure, unlikely that the adoption of the Lodge amendment would actually lead to the creation of a plural executive. There is more danger that it might give countenance to a move for some form of proportional representation in our legislative bodies, national, State, and local. If the electoral vote of a State should be divided between the several parties in the same proportions as its popular vote, why not its representation in Congress also? Why should the votes of minorities in geographical constituencies be lost instead of combined with the votes of like minorities in other districts to make up mathematical constituencies or quotas? The answer I think is this. If a legislative body is to work, its mass must be men of moderate sentiments; for, without compromise between like-minded men of unlike parties, nothing but violent legislation would result. A member whose constituency is geographic must almost perforce be a moderate man; he must have regard for the opinions of the minorities within his district or risk defeat at the next election. But a member whose constituency is mathematical—all Democrats, all Republicans, all antivivisectionists or what have you?—must almost necessarily be immoderate; he must be wholly subservient to the wishes of his party managers, or of the splinter "ism" which elects him, or risk being replaced at the next constituency-making by someone who is.[12]

The connection between electoral voting and representation in Congress is very close. The electoral body has often been likened to Congress in joint convention.[13] Senator Baldwin, of Georgia, who had been a member of the Federal Convention, once remarked that the electors were a constitutional branch of the Government as respectable as Congress, and in whom the Constitution in the business of electing a President had more confidence than in Congress.[14] Many of the early amendments, proposing the establishment of a uniform mode of appointing electors by the people in districts, suggested the same mode for choosing representatives. Many of the plans introduced in the 1870's, similar in principle to Senator Lodge's, but continuing the electors, would have worked equally well for Representatives; Senator Lodge's own plan could be adapted to Representatives by giving the odd congressional seats remaining after each party's integral quota had been filled, to the parties having the largest fractions.

I submit therefore that the danger to be apprehended from the adoption of proportional voting for the presidency is real. It ought not to be ignored merely because the mode of choosing Representatives is not dealt with in the amendment. We must remember the remark with which Senator Hillhouse in 1808

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[10] Madison to Hay, August 23, 1823.

[11] Daily Advertiser, June 6, 1800. Quoted from C. A. O'Neil, The American Electoral System (New York and London, 1887), p. 75—an invaluable work.

[12] The fallacies of PR are ably set forth in Bagehot's English Constitution, ch. vi.

[13] E. g., 33 Annals, 142.

[14] 10 Annals, 30 (1800).

introduced the set of constitutional amendments which some have supposed were meant as the framework for a new confederacy: "All [partial amendments] are aimed at particular detached parts; which, without examining or regarding the bearing on other parts, like partial alterations in a curious complicated machine, may, instead of benefiting, destroy its utility." [15]

What then should be done? I would suggest that the system of proportional voting be dropped from the Lodge amendment and the district system substituted. This, I repeat, is the mode which "was mostly, if not exclusively, in view when the Constitution was framed and adopted." It is also the mode which was advocated after some experience with the Constitution by Hamilton, Jefferson, Madison, Gallatin, James A. Bayard, J. Q. Adams, Van Buren, Benton, Webster, Story, and many others. Senator Benton explained it very well in 1824:

"It would divide every State into districts, equal to the whole number of votes to be given, and the people of each district would be governed by its own majority, and not by a majority existing in some remote part of the State. This would be agreeable to the rights of individuals: for, in entering into society and submitting to be bound by the decision of the majority, each individual retained the right of voting for himself wherever it was practicable, and of being governed by a majority of the vicinage, and not by majorities brought from remote sections to overwhelm him with their accumulated numbers. It would be agreeable to the interests of all parts of the States; for each State may have different interests in different parts; one part may be agricultural, another manufacturing, another commercial; and it would be unjust that the strongest should govern, or that two should combine and sacrifice the third. The district system would be agreeable to the intention of our present Constitution, which, in giving to each elector a separate vote, instead of giving to each State a consolidated vote, composed of all its electoral suffrages, clearly intended that each mass of persons entitled to one elector, should have the right of giving one vote, according to their own sense of their own interests." [16]

All the objects of the Lodge amendment would be attained equally well by the district system as by the proportional voting system. It is correct to say with Senator Dickerson, author of what used to be called the New Jersey plan of districting, that "upon a calculation of chances, the probabilities of a fair expression of the public will are increased by dividing the States into districts, and in the ratio of the number of districts to the number of States." [17] But the district system is preferable to proportional voting because it maintains the geographical constituencies and gives an equal voice to equal units of population rather than to equal aggregations of actual voters.

The significance of this last consideration in the distribution of a State's electoral votes should not be overlooked. Under the district system each group of, say, 300,000 persons residing in contiguous territory would be entitled to cast 1 electoral vote, and it would cast this vote regardless of how many of its citizens actually went to the polls. Under the proportional voting system the weight of these equal groups would vary with the turnout. Bad weather, for instance, might give the urban communities a fortuitous advantage over rural communities, as it does today under the general ticket system. Or an unusual interest in some local issue might lead to a community's exercising a disproportionate influence in the choice of a President. In fact, all the arguments which I have brought together in my introduction to justify the principle of electoral voting as against nationwide popular voting apply with equal force to the system of voting within a State—excepting only that which is based on the disproportion of the qualifications requisite for voting.

The manner of dividing a State into districts should present no special difficulties. Most of the early district system amendments provided for the establishment of as many districts in each State as that State was entitled to electors—the qualifications requisite for voting to be the same as those prescribed for congressional elections. The mode is inconvenient only insofar as it prevents the States from using the congressional district as the unit of voting. It might be better, therefore, if each State were divided by the legislature thereof into as many districts as will equal the number of representatives to which such State may be entitled in Congress. This would enable though it would not compel a State to use its congressional districts as its voting units. The two extra electoral votes to which each State is entitled under the Consitution might be given as sort of game-winning bonus to the candidate carrying the State as a whole,

[15] 17 Annals, 338.
[16] 41 Annals, 169.
[17] 33 Annals, 142.

or the State might be divided into 2 superdistricts, each to cast 1 vote. In this connection I would point out that in Michigan in 1892 the election was by the people in districts, with the exception of two electors, one of whom was chosen by the eastern, the other by the western part of the State. Such an arrangement has the advantage of bringing into a clear view the principle of equal masses, equal votes. It also exhibits the compromise in the electoral system between the popular and Federal principles.

One objection to the district system ought not to pass unnoticed. It is possible, indeed probable, that in districting a State for presidential elections the legislature thereof might resort to the iniquitous practice of gerrymandering.

"What is to become [asked Edward Everett in 1826] of the minorities on the district system? I could here tell the gentleman something about that arrangement in my own State, to which he alluded by a name—which, out of respect to a venerable patriot and statesman of the Revolution, now no more, and who had nothing to do with the transaction, I shall not repeat. At a time, when the parties in the State were nearly balanced, there was a small majority on the Federal side; 51,000, perhaps, on 1 side, and 49,000 on the other. In that state of public feeling, by virtue of a system of districts, consisting of adjacent territory, and the same amount of population (for in all these details, I believe the division was perfectly fair), it was so contrived that the minority chose 29 State senators, and the majority chose 11; and more votes were given for these 11, than were given for the 29. This is, indeed, an effectual protection afforded by the district system to the minority." [16]

The solution would be, in the first place, to provide in the Constitution that the districts should be compact and contiguous territories containing, as nearly as practicable, equal numbers of inhabitants—language which appears in the act of 1911 prescribing a single-member district system for Representatives. In the second place, it would be to entrust to Congress the same power to make and alter the State regulations regarding presidential elections that it now has in respect of the election of Representatives.

Every argument advanced by Hamilton in Nos. 59, 60, and 61 of the Federalist to justify the power of Congress to regulate the election of Members applies with equal force to the appointment of electors or, in the event of their abolition, to the casting of electoral votes. The same may be said of the arguments of Madison in the Federal Convention:

"The policy of referring the appointment of the House of Representatives to the people and not to the legislatures of the States, supposes that the result will be somewhat influenced by the mode. This view of the question seems to decide that the legislatures of the State ought not to have the uncontrolled right of regulating the times, places, and manner of holding elections. These were words of great latitude. It was impossible to foresee all the abuses that might be made of the discretionary power. Whether the electors [that is, the voters] should vote by ballot or viva voce; should assemble at this place or that place; should be divided into districts or all meet at one place; should all vote for all the Representatives; or all in a district vote for a number allotted to the district; these and many other points would depend on the legislatures, and might materially affect the appointments. Whenever the State legislatures had a favorite measure to carry, they would take care so to mold their regulations as to favor the candidates they wished to succeed. * * * It seemed as improper in principle—though it might be less inconvenient in practice—to give the State legislatures this great authority over the election of Representatives of the people in the General Legislature, as it would be to give to the latter a like power over the election of their representatives in the State legislature." [17]

Against this it ought to be said that Congress has not been very successful in preventing the gerrymandering of congressional districts and would probably be no more successful in respect of electoral districts. Perhaps so. But the evil would be less. Congressional gerrymandering affects measures; presidential gerrymandering could affect but a single individual. At the very worst it could result in the choice of a man who was considered by the second largest group of persons in the country as the best fitted for the office. And even here it might have a countervailing merit. If the electoral districts were gerrymandered on the same plan as the congressional districts (as they probably would be), the result of the election would be to produce a President in political sympathy with the majority of the House of Representatives.

[16] Register of Debates, 1583–1584.
[17] Farrand, II, 240–241.

I would conclude, therefore, that, on a relative view of the merits and demerits of the district system and the proportional voting system, respectively, the palm must be awarded to the former. The district system is clearly to be preferred to the present general-ticket system. Of the proportional-voting system we must speak more doubtfully.

THE INTERMEDIATE ELECTORS

The idea of abolishing the intermediate electors and committing the choice of the President and Vice President to the people voting in districts, in States, or in the United States at large is an old one. First advanced in the shape of a constitutional amendment by Senator Benton, of Missouri, in 1823,[30] it had long been hinted at. In 1801 Jefferson wrote to Gallatin of an "amendment which I know will be proposed, to wit, to have no electors, but let the people vote directly, and the ticket which has a plurality of the votes of any State to be considered as receiving the whole vote of the State."[31] And in 1803 Representative Holland declared that he would "have preferred an immediate suffrage to this indirect mode of electing by electors."[32]

The argument which is usually brought forward to support the proposal is very plausible, if not altogether sound. I give it in the words of the report of a select committee of the Senate made January 19, 1826:

"It was the intention of the Constitution that these electors should be an independent body of men, chosen by the people from among themselves, on account of their superior discernment, virtue, and information; and that this select body should be left to make the election according to their own will, without the slightest control from the body of the people. That this intention has failed of its object in every election, is a fact of such universal notoriety, that no one can dispute it. * * * Electors, therefore, have not answered the design of their institution. They are not the independent body and superior characters which they were intended to be. They are not left to the exercise of their own judgment; on the contrary they give their vote, or bind themselves to give it, according to the will of their constituents. They have degenerated into mere agents, in a case which requires no agency, and where the agent is useless if he is faithful, and dangerous, if he is not. Instead of being chosen for their noble qualities set forth in the Federalist, candidates for electors are now most usually selected for their devotion to a party, their popular manners, and a supposed talent at electioneering, which the framers of the Constitution would have been ashamed to possess."[33]

There are some things about this argument which call for comment. While it is doubtless true that the character of the electors has sunk from the standard of perfection visualized by the framers of the Constitution, it is very doubtful that these electors were ever intended to act a part wholly independent of the people. The electoral system was not the invention of that part of the Federal Convention which distrusted the people[34] but of that part which trusted them. First proposed by James Wilson, it seems to have been regarded by him as an equivalent to an election by the people.[35] In the debates it was advocated not so much as a means of correcting the judgment of the people (and never as a means of ignoring or superseding it) but as a device for getting over the difficulties of disproportionate voting qualifications and Negro representation.[36] And when it

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[30] H. V. Ames, proposed Amendments to the Constitution of the United States (Washington, 1897), p. 89. Benton himself asserted the novelty of his proposal, 41 Annals, 168.

[31] Jefferson to Gallatin, September 18, 1801. Such an amendment would have fixed the general-ticket system on the States. The Norris amendment of 1934, as finally voted on by the Senate, was of the same type.

[32] 13 Annals, 735.

[33] 2 Register of Debates, appendix, p. 121. Nowadays, in States using the Australian (or short) ballot, the names of the candidates for electors are not printed, so that the people have no idea for what agents they are voting.

[34] When George Mason declared that "it would be as unnatural to refer the choice of a proper character for Chief Magistrate to the people, as it would, to refer a trial of colors to a blind man," he spoke for the minority.

[35] Wilson's plan, seldom or never correctly explained in secondary works, was to divide the United States as a whole into a certain number of districts, each to consist of one or more States, and each to elect a certain number of persons who, meeting as a single body, would choose the Executive. This plan, submitted June 2, 1787, was an elaboration of his proposal of the preceding day that the Executive be "chosen by the people at large." Nowadays, to be sure, an election by the people at large means a direct vote by nationwide referendum, but it was not necessarily so in the 18th century. Madison, in the Virginia Convention, declared that under the scheme actually adopted the President would be "the choice of the people at large" (Elliot's Debates, III, 487). And in the 1st Congress he spoke of the President as being "appointed at present by the suffrages of 3 millions of people." 1 Annals, 461.

[36] "There was one difficulty however of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than the

was finally adopted, Madison had no hesitancy in saying that "the President is now to be elected by the people." [27]

However this may be, it cannot be denied that the electors at the present time exercise much less discretion than was originally expected of them. The Founding Fathers regarded the electors as analogous to Representatives. Hamilton called them "a special body of representatives, deputed by the society for the single purpose of making the important choice." [28] Abraham Baldwin, as we have already seen, referred to them as a constitutional branch of the Government "as respectable as Congress and in whom the Constitution on this business has more confidence than in Congress." [29] And Representatives were regarded by the Founding Fathers, not as State ambassadors to be "the mere agents and advocates of State interests and views," but as "the impartial umpires and guardians of justice and general good." [30] "We stand not here," said Thomas Sedgwick in the 1st Congress, "as the representatives of the State legislatures * * * but as the Representatives of the great body of the people." [31] Nothing of this idea remains today as regards the electors. An elector is viewed as an automaton, a mere organ for conveying the wishes of his constituents to the electoral college. A notable proof of this fact was given in 1876 when James Russell Lowell, being asked to cast his vote for Tilden in order to prevent the success of a gigantic electoral swindle, replied that he was a mere delegate of his constituents, a trustee to carry out definite instructions, and that to refuse to comply with his mandate would be "treacherous, dishonorable, and immoral." To the Founding Fathers it is the countenancing of a fraud that would have seemed "treacherous, dishonorable, and immoral."

In the light of these considerations the proposal to abolish the intermediate electors is a reform which must appear very reasonable. If the electors are automata, merely registering the will of their constituents, why not ascertain that will directly? The case is not so simple, however. Madison, first consulted on this subject in 1823, later made a very pertinent remark:

"One advantage of electors is, that although generally the mere mouths of their constituents, they may be intentionally left sometimes to their own judgment, guided by further information that may be acquired by them: and finally, what is of material importance, they will be able, when ascertaining, which may not be till a late hour, that the first choice of their constituents is utterly hopeless, to substitute in the electoral vote the name known to be their second choice." [32]

There has been cases where exactly this course has been followed. In 1824, for example, the electors of North Carolina were pledged both to Jackson and Adams with the understanding that they would vote for the one who had the best chance of success. [33] And as recently as 1912 the Roosevelt ticket of electors declared before election that, if Theodore Roosevelt could not be elected and it should become a contest between Taft and Wilson, they would vote for Taft. [34]

Under the present arrangements this advantage of electors may be thought a small one. The operation of the general-ticket system has been such as invariably to give some candidate a majority of the electoral vote. No combination of minority parties could affect the result. But if the general ticket were to be broken up—either by the district system or by proportional voting—occasions might frequently arise when a majority opposition to a plurality candidate might make itself felt. On such occasions the advantage mentioned by Madison would be very considerable.

A second advantage of electors is that they act as a connecting link between the presidency and vice presidency. Being pledged to support the candidates of their parties for both offices, it can seldom happen that the popular election will

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Southern States; and the latter could have no influence in the election on the score of the Negroes. The substitution of electors obviated this difficulty." Madison, July 10, 1787. Farrand, II, 57.

[27] Farrand, II, 587.

[28] Federalist, No. 68.

[29] 10 Annals, 30. On the other hand, the Supreme Court in *Fitzgerald* v. *Green* (134 U. S. 379 (1890)) has said that "presidential electors, although they are appointed and act under and pursuant to the Constitution, are no more officers or agents of the United States than are the members of State legislatures when acting as electors of Federal Senators, or the people of the States when acting as electors of Representatives in Congress." The founding fathers would have denied the analogy; for they likened the electoral body to the persons chosen (Senators and Representatives) rather than to the persons choosing them (State legislatures and the people).

[30] Farrand, I, 428.

[31] 1 Annals, 743.

[32] Madison to Robert Taylor, January 30, 1824.

[33] C. O. Paullin, Atlas of Historical Geography of the United States (Washington and New York, 1932), p. 90

[34] Ibid., p. 103.

result in the choice of a President of one party and a Vice President of another. It is conceivable, however, that in a close election under the Lodge amendments a popular vice-presidential candidate of a minority party might succeed where his principal failed. The 12th amendment to the Constitution, it will be remembered, was adopted precisely to prevent such a result.

Against these advantages there are, to be sure, disadvantages. Perhaps the most serious is this. The use of intermediate electors limits the choice of voters in each State to those candidates who have electoral tickets, and, more particularly, to those candidates whose electoral tickets appear on the printed ballots. In 1856, for example, it proved impossible for the voters in most of the Southern States to cast a single vote for Fremont and Dayton. In 1912 a Californian could vote for Taft and his unnamed colleague [36] only by writing in the names of 13 electors. In 1948 the Alabama voters were precluded from voting for Truman and Barkley.

It would appear then that the desirability of abolishing the intermediate electors is not quite so self-evident as it seemed at first glance. What should be done depends mainly on what changes are made in other parts of the electoral system. Principally, as we shall see in the next section, it depends on whether or not some proper mode is introduced of taking the sense of the Nation in cases where no candidate for President (or Vice President) has obtained a majority of the electoral vote. With such a mode most of the advantages of electors would disappear. Without it, the case might be different.

THE UMPIRAGE OF CONGRESS

The 12th amendment to the Constitution provides that the person having the greatest number of electoral votes shall be the President, if such number be a majority of the whole number of electors appointed; but if no person have such majority, then the House of Representatives, voting by States and not by heads, shall immediately, by ballot, elect the President "from the persons having the highest numbers not exceeding three on the list of those voted for as President." [37] A majority of all the States is necessary to a choice. The same rule controls the election of the Vice President, except that the Senate, voting by heads, makes the choice "from the two highest numbers on the list," a majority of the whole number of Senators being necessary to a choice.

The impropriety of this mode of determining the eventual choice of the Executive has long been noticed. Jefferson, writing to George Hay in 1823, had no hesitation in saying that he had "ever considered the constitutional mode of election ultimately by the Legislature voting by States as the most dangerous blot in our Constitution, and one which some unlucky chance will some day hit, and give us a pope and antipope." [38] Madison was of the same opinion:

"* * * the present rule of voting for President by the House of Representatives is so great a departure from the republican principle of numerical equality, and even from the Federal rule which qualifies the numerical by a State equality, and is so pregnant also with a mischievous tendency in practice, that an amendment of the Constitution on this point is justly called for by all its considerate and best friends." [39]

Senator Lodge has proposed precisely such an amendment. He would provide simply that "the person having the greatest number of electoral votes for President shall be President." In the event of a tie (an impossible case under the decimal system of computing the electoral vote [40] but quite possible if the electors were to be continued), then the one for whom the greatest number of popular

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[36] The Republican candidate for Vice President died before election day. It was not until after the election that the Republican National Committee determined that the Republican electors should vote for Nicholas Murray Butler.

[37] The quoted language is very obscure. "I will venture to say that three-fourths of the people who shall read it, will think it is intended to confine the election to three persons; and yet, I understand, it is the intention of the Senate only to confine it to 3 classes. ' * * The 3 highest numbers may refer to 40 persons, if they should be equal" (Representative Griswold, December 7, 1803; 13 Annals, 677, 678). It has also been suggested that the words "not exceeding 3" imply that the House might, if it chose, confine the election to the persons having the 2 highest numbers on the list or to the persons tied with the highest number (Representative Baldwin, December 7, 1803; Ibid., p. 679).

[38] Jefferson to Hay, August 17, 1923. Works, XII, 268.

[39] Madison to Hay, August 23, 1823. Similar sentiments may be found in the debates of Congress on the 12th amendment, notably in the remarks of Senator Taylor, of Virginia (John Taylor, of Caroline).

[40] In prorating the electoral vote of each State the calculations are to be carried to three decimal places, "unless a more detailed calculation would change the result of the election." The probability of two candidates receiving an equal vote to an infinite number of decimal places is virtually nil.

votes was cast shall be President. A similar rule would control the election of the Vice President.

High authority can be quoted for the idea of making a plurality sufficient to elect. James Wilson, perhaps the leading member of the Federal Convention, when the subject was under debate, once declared that "the concurrence of a majority of people is not a necessary principle of election, nor required as such in any of our States." [40] Mason and Williamson "preferred making the highest though not having a majority of the votes, President, to a reference of the matter to the Senate." [41] Madison and Williamson moved to strike out the word "majority" and insert "one-third" so that "the eventual power might not be exercised" if so many as one-third of the electors should vote for the same person.[42]

High authority and strong arguments, however, can likewise be brought forward to sustain a different view. The members of the Federal Convention as a body decided that a majority vote would be necessary for the choice of a President both in the first election by electors and in the contingent election by the House of Representatives. The 8th Congress and the States, in passing the 12th amendment, extended the majority principle to the case of the Vice President.[43] Madison, commenting in 1823 on a proposal identical with that of Senator Lodge, remarked:

"The mode which you seem to approve, of making a plurality of electoral votes a definitive appointment would have the merit of avoiding the legislative agency in appointing the Executive; but might it not, by multiplying hopes and chances, stimulate intrigue and exertion, as well as incur too great a risk of success to a very inferior candidate? Next to the propriety of having a President the real choice of a majority of his constituents, it is desirable that he should inspire respect and acquiescence by qualifications not suffering too much by comparison." [44]

It is worth observing that these arguments would gain in force by the introduction of a system of proportional voting and the abolition of the intermediate electors; for the former would tend to multiply the number of candidates and the latter would make impossible the subsequent reduction of that number by the device of electors voting their constituents' second choices. It might happen that the leading candidate might have a very small proportion indeed of the popular or electoral vote. He might even be totally obnoxious to a great majority of the Nation. As Madison stated to Henry Lee:

"In what degree a plurality of votes is evidence of the will of the majority of voters, must depend on circumstances more easily estimated in a given case than susceptible of general definition. The greater the number of candidates among whom the votes are divided, the more uncertain must, of course, be the inference from the plurality with respect to the majority." [45]

This consideration alone may be thought sufficient to decide the issue. We must also take into account, however, the certainty that it will not be debated solely on its merits. The present mode of voting in the contingent election is advantageous to the small States. The present mode of appointing electors is advantageous to the large States. The abolition or modification of the one may therefore be regarded as a political equivalent for the abolition or modification of the other. The connection has long been noticed. As early as 1826 Representative McDuffie declared that "the small States will never consent to give up their eventual equality in voting for the President, in this House, unless the large States will consent to break their power of concentration and combination" in the initial electoral voting.[46]

If, then, we accept the desirability, or even the political necessity, of retaining some mechanism of taking the final sense of the majority of the Nation, we may briefly review the modes which might reasonably be adopted.

A mode first recommended by Representative McDuffie, in 1826, deserves consideration: "In case the primary vote of the electoral colleges shall fail to decide the election, I propose that the two highest candidates, respectively, shall be

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[40] July 17, 1787.
[41] September 5, 1787.
[42] Sept tober 5, 1787.
[43] The Constitution, as originally adopted, never notices a vote for Vice President, and no vote was in fact given for such an office. Each elector wrote the names of two persons on a piece of paper called a ballot; these were his alternative choices for President; either of them might become President. The Vice President was, in effect, the runnerup in the presidential contest. He might or might not be the choice of a majority of the electors, depending on whether his vote was or was not in excess of one-fourth of the electoral vote.
[44] Madison to Hay, August 23, 1823.
[45] Madison to Lee, January 14, 1825.
[46] 2 Register of Debates, 1376.

referred back to the people, voting directly for the President and Vice President by districts."[27] Such a scheme could be operated without the intervention of electors at all, and the obstacles to it, being chiefly temporal, could easily be overcome.

An amendment introduced by Senator Van Buren in 1823 proposed that, in like circumstances, the electors should meet again and choose the President from the two persons receiving the highest number of votes at the first election.[28] Such a scheme would transfer the umpirage of elections from the Congress to the electoral college. In view of the present character of electors, it has not perhaps much to commend it.

Assuming that the umpirage is retained by Congress, the most proper mode of deciding presidential contests is that which Representative Tucker is said to have suggested in 1819—that in electing a President the House of Representative should vote by heads and not by States.[29] The overriding advantage of this mode is that the President and House of Representatives would surely be of the same political sympathies. It would, however, utterly deprive the small States of the overrepresentation to which they have become accustomed in the choice of a President.

Perhaps then the mode which has the best chance of success is that which was voted by the Federal Convention when it contemplated allowing the National Legislature to choose the President in the first instance—an election by joint ballot of the two Houses, each Member to have one vote. Such an arrangement would preserve to the small States the advantage which they now have in the electoral college but would deprive them of any additional advantage.

As regards the Vice President, we need only say that his appointment should depend on the same body that appoints the President. Under the present system, the House might choose a President of one party, and the Senate a Vice President of another.

One point remains. From how many persons should the eventual selection be made? In effect the question is between 3 and 2, for none, I suppose, will wish to restore the nuumber, 5, prescribed in the original Constitution, or advocate 7 or 13, as did Sherman, Speight, and Rutledge in the Federal Convention. Here again Madison has supplied the answer:

"It might be a question, whether the 3 instead of the 2 highest names might not be put within the choice of Congress, inasmuch as it not unfrequently happens, that the candidate third on the list of votes would in a question with either of the 2 first outvote him, and, consequently be the real preference of the voters. But this advantage of opening a wider door and a better chance to merit, may be outweighed by an increased difficulty in obtaining a prompt and quiet decision by Congress with 3 candidates before them, supported by 3 parties, no one of them making a majority of the whole."[30]

Whether any provision should be made for the case where there is an equality of votes among several highest on the list is a moot question. The original Constitution made none, and John Taylor, of Caroline, thought that none was necessary.[31] Others have thought otherwise.

LUCIUS WILMERDING, Jr.

PRINCETON, N. J.

REFORM OF ELECTORAL COLLEGE SYSTEM

(Extension of remarks of Hon. Frederic R. Coudert, Jr., of New York, in the House of Representatives, Monday, March 6, 1950)

Mr. COUDERT. Mr. Speaker, under leave to extend my remarks, I include a letter sent to me by J. Harvie Williams, a constituent of mine, who is a student of political science. Mr. Williams has made a careful analysis of the present electoral college system, the Lodge-Gossett proposal, and my resolution, House Joint Resolution 414, which is an alternate reform proposal of the present electoral college system.

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[27] 2 Register of Debates, 1366.
[28] 41 Annals, 74, 366.
[29] 34 Annals, 1420.
[30] Madison to Hay, August 23, 1823.
[31] 13 Annals, 93.

The letter follows:

NEW YORK, N. Y., *February 22, 1950.*

Hon. FREDERIC R. COUDERT, Jr.,
House of Representatives, Washington, D. C.

DEAR MR. COUDERT: As you requested, I have made a comprehensive study of the comparative effect of the electoral reforms proposed in Lodge-Gossett amendment and in the amendment which you introduced on February 6 in House Joint Resolution 414.

To Senator Lodge, of Massachusetts, and Representative Gossett, of Texas, must go the bulk of the credit for bringing the need of electoral reform to the fore in the public mind. And to Lucius Wilmerding, Jr., of Princeton, N. J., must go the credit for the most scholarly and complete study of the subject that I have seen, published as the leading article in Political Science Quarterly for March 1949. These gentlemen have forced the cause to its present vantage point in public thought. They have pointed out some of the weaknesses of our present electoral system. Senator Lodge has won the acclaim of all friends of electoral reform by his remarkable achievement in winning more than a two-thirds majority (64 to 27) in the Senate for his electoral reform plan, although many able and thoughtful men question the principle on which it is founded and doubt seriously that it would solve the problem in view.

Before the House of Representatives comes to act on the measure, most careful consideration should be given to these questions regarding it:

1. Does the Lodge-Gossett amendment conform to the established structure of American Government?

2. Does it bring into closer balance the electoral power and the congressional power of the political parties in the States and therefore in the Nation?

3. Does it reduce or eliminate the present basis of ideological conflict between the President and the Congress—the greatest weakness of the present system?

The whole case for the electoral college is set forth in a single paragraph in George Bancroft's History of the United States, VI (pp. 339–349):

"And now the whole line of march to the mode of the election of the President can be surveyed. The Convention at first reluctantly conferred that office on the National Legislature; and to prevent the possibility of failure by a negative vote of one House or the other, to the legislature voting in joint ballot. The escape from the danger of cabal corruption, it next transferred the full and final power of choice to an electoral college that should be the exact counterpart of the joint convention of the two Houses in the representation of the States as units as well as population of the States, and should meet at the seat of government. Then fearing that so large a number of men would not travel to the seat of government for that single purpose, or might be hindered on the way, they most reluctantly went back to the choice of the two Houses in joint convention. At this moment the thought arose that the electors might cast their votes in their own States, and transmit the certificates of their ballots to the seat of government. Accordingly, the work of electing a President was divided: the convention removed the act of voting from the joint session of the two Houses to electoral colleges in the several States, the act of voting to be followed by the transmission of authenticated certificates of the votes to a branch of the General Legislature at the seat of government: and then it restored to the two Houses in the presence of each other the same office of counting the collected certificates which they would have performed had the choice remained with the two Houses of the Legislature.

Thus it is clear that the Founding Fathers regarded the electoral college as a counterpart body of the whole Congress. It was necessary then—and still is necessary now to articulate the Federal and national features of our Government in the election of a President as they are articulated in the two Houses of Congress, the Senate being a Federal body with equal representation for the States as units and the House of Representatives being a national body with representation based on the population of the States. Too, the electoral college was and is necessary to maintain the separation of executive and legislative power, an essential element in the structure of our National Government. This articulation of Federal and national principles in our Constitution, while the result of a political compromise in the convention, is the root of our greatest contribution to the knowledge and practice of statecraft and government—the eminent and successful principle of dual sovereignty.

To each State the Founding Fathers gave electoral power equal to its congressional power, and so it remains today. But the concept of the electoral college as the counterpart of Congress in the articulation of Federal and national electoral power was destroyed by political leaders of the larger party in each of the States. To win all of the electoral power in a State these political leaders had things rearranged so that all presidential electors ran for election on general statewide tickets. This is the arrangement that permits the entire electoral vote of a State to go to the presidential candidate of one party by as little as one vote plurality. This practice is the source of the complaints against our present electoral system. This is the situation sought to be corrected. I don't believe there are very many among the American people who want to change violently the structure of our Government, and I am certain that the sponsors of the Lodge-Gossett amendment are not among that number.

I am equally certain that the Coudert electoral reform plan embodied in House Joint Resolution 414 will make the electoral college the exact counterpart of a joint session of the Senate and the House of Representatives. It provides:

"SECTION 1. Each State shall choose a number of electors of the President and Vice President, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress, in the same manner as its Senators and Representatives are chosen * * *."

The effect of this provision would be to put an end to the prevailing practice in the States of choosing all of their presidential electors by the general statewide ticket system. Rather, only the 2 Federal electors, corresponding to each State's 2 Senators, would be elected on a statewide basis, unless, as in some States, some of the Representatives are elected at large; and the national electors, corresponding to the Representatives in Congress, would be elected in congressional districts, or at large in a few cases.

Adoption of the Coudert amendment would have these important political effects:

1. Divide each State's electoral power among the parties on the same basis that its congressional power is divided among them. Thus national parties would have electoral power commensurate with their congressional power--an ideal situation.

2. Give the Presidency to any party that won a bare majority (218) of the seats in the House, and won a bare majority of the States (25) with 2 electors each, for a total of 268 electoral votes, or won more congressional districts and carried fewer States.

3. The President and the whole Congress would have exactly the same constituency cast up in the same form. Pressure groups of all kinds would have the same weight in electing the President that they have in electing the whole membership of the House and Senate. There would be no basis for an ideological conflict between the President and the Congress when both were of such close political complexion.

4. Both large and small States would have their political weight properly divided among the parties in the election of the President.

5. States having large blocs of doubtful electoral votes would no longer be the exclusive sources of party candidates for President, although they would continue to have the largest delegations at the nominating conventions.

6. New York's 47 doubtful electoral votes under the present system would be reduced to a doubtful 12 under the Coudert amendment, since only 10 of its 45 House seats (43 before 1932) have changed their party representation since 1920. The two Federal electors would always be doubtful. New York would continue to be a dominant State, but its dominance would not be overwhelming. The same would be true of other large States like Pennsylvania, Ohio, Illinois, and California.

It is clear, then, that the Coudert amendment conforms squarely with the established structure of our National Government, that it would almost exactly balance the electoral and congressional power of the political parties, and thus would eliminate the basis of the present ideological conflict between the President and the Congress—a conflict that will doom our form of government if it is not soon ended.

It should be noted that the Coudert amendment maintains the requirement of a majority of the electoral vote for the election of the President; and it should be emphasized that the majority requirement is the primary basis of our two-party political system. Under the Coudert amendment, when no candidate for President or Vice President received a majority of the electoral vote the final choices would be made by a joint session of Congress voting as a

single body, from among the persons having the three highest numbers of votes on the lists of those voted for each office. Three fourths of the combined membership of the Senate and the House would be required as a quorum.

On the other hand, by introducing a new and novel application of the principle of proportional representation for the division of each State's electoral vote proportionally among the candidates for President, and allowing the election of a President by a plurality of only 40 percent of the electoral vote, the Lodge-Gossett amendment would violate the established structure of our National Government and remove the foundation of the two-party system. By abolishing the electoral college entirely the Lodge-Gossett amendment attempts to remove the Federal feature from our form of Government, insofar as it is possible politically to do so. It denies the validity of dual sovereignty.

Conceivably in 25 years, once the proportional principle has been dignified with constitutional authority, several of our larger States will be electing their Representatives in Congress by some system of proportional representation; and, conceivably, several new minor parties will be electing, together, a bloc of 25 to 35 Representatives who will be a continuing balance of power in the Congress of the United States. It should be remembered that the proportional principle is the source of the multiparty systems that have paralyzed European governments and brought up dictators to relieve the paralysis. Both Hitler and Mussolini had their political origins in the conditions created by proportional representation.

Based on previous elections, which can only be guides, for under either, electoral reform plan campaigns would have been conducted differently, the Lodge-Gossett amendment would have violently shifted the parties' source of electoral power. The Republicans in 1948 would have won from the Democrats 32.4 additional electoral votes. But, 30.2 of them would have come from the 11 Southern States, and 13.9 of them would have come from the 5 border States of Maryland, West Virginia, Kentucky, Missouri, and Oklahoma, for a total of 43.5 electoral votes. A Republican loss of 11.7 electoral votes in the 32 Northern States brings the net gain down to 32.4 electoral votes. To match this gain of 43.5 votes in electoral power in the Southern States and the border States the Republicans have only 5 House seats of congressional power and carried only the State of Maryland by a plurality.

A comprehensive study of the prospective shifts of electoral power under the Lodge-Gossett amendment reveals that Republican gains are consistently in the Southern and border States, and the Republican losses are, of course, in the North. Both parties would lose electoral power where they would have congressional power, and would gain electoral power where they have little or no chance of gaining congressional power. Thus, the Lodge-Gossett amendment would produce as great a disparity between the sources of the parties' electoral and congressional power as exists under the present system, with a growing basis for the continuance of the ideological conflict between the President and the Congress.

There is enclosed a table showing the net electoral vote advantage by the sectional political divisions of the country for the parties in terms of the Coudert plan over the Lodge plan, for the 1948, 1944, and 1940 elections.

You will note that the Coudert plan is consistently better for Republicans in the 32 Northern States—both in the 8 largest States and in the other 24—and is equally advantageous for the Democrats in the border and Southern States. Except in 1940 when some odd parties elected Representatives in some of the Western States, other parties are consistent net losers in all sections under the Coudert plan. Vice versa, the other parties would be consistent gainers in all sections under the Lodge-Gossett plan.

Sincerely,

J. HARVIE WILLIAMS.

MENDING THE POLITICAL ROOF—EXTENSION OF REMARKS OF HON. FREDERIC R. COUDERT, JR., OF NEW YORK IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 7, 1953

Mr. COUDERT. Mr. Speaker, under leave to extend my remarks in the Record, I include the following article by the distinguished commentator, Felix Morley, which appeared in the January 7 issue of the Pathfinder magazine:

MENDING THE POLITICAL ROOF

(By Felix Morley)

Everybody knows the story of the citizen whose house leaked so badly. When the weather was fine there was no need to fix it, and in rainy weather it was too late.

That is very much the situation in regard to the electoral college which is only now—2 weeks before the inauguration—solemnly announcing that Dwight D. Eisenhower and Richard M. Nixon have really been chosen as President and Vice President of the United States. Everybody agrees that our present electoral systems is in many respects silly and in some respects wholly undesirable. But it can't be changed during a presidential campaign, and after the campaign, revision doesn't seem necessary.

But Representative Frederic R. Coudert, Jr., of New York, thinks that a spell of fine weather should be utilized to mend a leaky roof. And he has started work by drafting a constitutional amendment, which he will introduce as soon as the 83d Congress convenes, designed to make our electoral system more simple and more democratic.

Outlining his plan for Pathfinder readers, Coudert makes plain that it would keep all the benefits in our indirect system of electing the President. There would still be an electoral college, but it would henceforth really reflect the popular will. There would be no possibility, as there is now, of a President being chosen by a minority vote. And the Coudert amendment would also sharply lessen the present undue influence of the big cities, and the political machines in those cities, in the selection of candidates.

LOST VOTES

The major criticism of the present electoral system is that each State casts its electoral vote as a unit. In the last election, for instance, New York gave 3,952,815 votes to Eisenhower and 3,104,601 votes to Stevenson. But because the State electors customarily vote as a unit, although not legally bound to do so, Eisenhower got all of New York's 45 electoral votes. The reverse of this situation was seen in North Carolina, where Stevenson got 652,803 votes to Eisenhower's 558,107. Under the unit rule the Democratic candidate gets all of North Carolina's 14 electoral votes, making the entire Republican vote there seem as futile as was the Democratic vote in New York.

The Coudert amendment provides that the electors shall be chosen in the same manner as Members of Congress. Instead of a statewide slate, one elector would be selected by the voters in each congressional district, and two would be chosen at large from the entire State, to correspond with the vote for Senators.

In New York, on November 4, the people elected 27 Republican and 16 Democratic Representatives. They elected 1 Republican Senator, and probably would have elected 2—judging by the division of the statewide vote—if there had been 2 senatorial contests.

In North Carolina, on November 4, the people elected 1 Republican and 11 Democratic Congressmen. There was no senatorial contest there, but if there had been the Democratic candidates would certainly have won.

REAL RESULTS

Under the present system the Republicans get all 45 electoral votes from New York and the Democrats get all 14 electoral votes from North Carolina. Under the Coudert amendment the electoral vote of both States would be split. In New York it would be 29 Republican to 16 Democratic. In North Carolina it would be 1 Republican to 15 Democrats. For the Nation as a whole, Coudert figures, Eisenhower under this plan would have 309 electors to Stevenson's 231, instead of the top-heavy 442-to-89 division in the electoral college which is now formally announced.

It may seem curious that a Republican spokesman should advocate an electoral reform which, so far as the last election is concerned, would have cut the landslide presidential victory of the GOP candidate. But Coudert has some effective answers to this objection.

In the first place, he says, it is not politically healthy for any President to have a huge majority in the electoral college if the Congress is almost evenly divided—as it is now—between the two parties. Such a situation tends to increase, rather than diminish, a conflict between the White House and Capitol Hill which is not nationally advantageous.

In the second place, Mr. Coudert emphasizes that if the 2-party system is to be restored in the South, there must be a buildup of Republican organization by congressional districts. He argues that to choose the presidential electors locally, rather than on a statewide basis, would do just that. He further points out that under his plan the electoral vote would be definitely known as soon as the congressional returns were in.

VOTERS' CHOICE

But the most important feature of the Coudert amendment is that it would diminish the influence of the political machines in the great cities. Pressure groups in New York, Chicago, and Philadelphia often carry a whole State for a President, regardless of the effort for clean politics in the small towns and rural areas. This situation gives the city machines undue influence in the selection of presidential candidates. They would lose most of this unfair advantage under the Coudert amendment, making each congressional district the electoral unit.

For that very reason the proposal of this able and public-spirited New York lawyer will have hard sledding. But it also has strong support, in part because it is simple, logical, and easy to understand.

In summary, Coudert proposes that the power to nominate and elect a President should be taken away from professional politicians and restored to the citizens of this country as a whole. In that respect our constitutional roof needs mending, and now seems the logical time.

HOUSE OF REPRESENTATIVES,
Washington, D. C., June 25, 1951.

In re electoral-college reform.

Hon. FRANCIS E. WALTER,
Old House Office Building, Washington, D. C.
(Attention: Mr. Walter M. Besterman.)

MY DEAR MR. CHAIRMAN: It will be appreciated if the attached document written by J. Harvie Williams may be included in the hearings on the electoral-college reform bill.

Very faithfully yours,

F. R. COUDERT,
Member of Congress.

ELECTORAL COLLEGE REFORM

Others have made excellent presentations of the cases for both the district plan proposed by Representative Coudert and the proportional plan proposed by Representative Gossett. Brief comment here in favor of the district plan will be sufficient.

Of possibly greater importance in political decisions are 11 tables comparing Messrs. Coudert's and Gossett's proposed electoral plans with each other and with the present electoral system. This is done by parties in the political sections of the Nation and for the entire country. These tables are designed to be of value to the party leaders in Congress, without whose support no reform in the manner of electing the President and Vice President is possible.

Before discussing tables I to XI, a word must be said in support of the district plan.

From the party leaders' standpoint the district plan of choosing presidential electors by congressional district (or constituency) with the two electors corresponding to Senators chosen at large in each State is simplicity itself, for the party carrying a majority of the States (25) and a majority of the congressional districts will have elected more than a majority of the electoral college—50 from Senate constituencies and 218 from House constituencies.

The district plan will conform the President's constituency to that of the whole Congress, making him subject to the same political pressures in kind and degree that bear on the whole Congress. The district plan will relieve the President from the inordinate political pressures that now bear on him from the excitable and unprenticed majorities in the metropolitan cities which bestow large blocks of electoral votes but conversely have far less weight in the House of Representatives.

With the same form of constituency there will be no basis for the bitter ideological conflict now raging between the White House and the Congress.

The electoral college must be maintained because it is the taproot of the American institution of balance and separation of executive and legislative powers. Chosen under the district plan, the electoral college will be like-minded with Congress but entirely separate, a counterpart body to elect the President and Vice President, as was the intention of the Founding Fathers.

The district plan will restore the political balance of governmental power at the source by removing the tremendous imbalance inherent in the present system of choosing presidential electors by the general-ticket method.

The district plan will divide the presidential and congressional power between the political parties on approximately the same basis, as close a balance as is possible without actually merging the executive and legislative power. This approximate balance of presidential and congressional power within the political parties in each State should have a strong appeal to party leaders struggling with the problem ideological splits in their parties.

At the present time the Democratic Party is split geographically by States at the Mason-Dixon line, while the Republican Party, a frankly sectional party above that line, is split geographically within the States having cities over a half million population.

Relieved of the pressures of the big-city majorities by the operation of the district plan, both parties will have more internal cohesion.

The 11 tables comparing the district and proportional plans of electoral reform are based on the assumption that each political party would elect one presidential elector for each House seat won in presidential elections and two presidential electors in each State carried in the same election. The assumption regarding district presidential electors is based on the fact that in New York and some other States the name of the party's candidate for district elector would appear on the voting machine right next to that of the party's candidate for Representative in Congress, the offices being arranged on the party's row on the voting machine in the descending order from statewide to the smallest constituency. With the increased use of voting machines, this assumption would become even more valid.

At first blush it may seem that the comparative tables should be based on the popular vote for President in congressional districts. However, reflection from common knowledge will support the view that such a basis would be a distortion due to the mere mechanics of ballot and voting-machine arrangements of candidates.

In preparing these tabulations the country has been divided (by States) into its natural political groupings—the 11 States of the "solid South"; the five border States that lie just to the north and run from Maryland to Oklahoma; and the now 32 Northern States. These sectional groupings are in accord with the facts of our political life.

For instance, no Republican President from McKinley to Hoover ever needed a single electoral vote from the States of the South or the border. Republican leaders, therefore, will be especially interested in table I, which covers the section in which they have operated most effectively.

Conservative Democrats will be most interested in tables II and III, which cover the Southern and border States.

All conservatives, Democrat and Republican, will be interested in tables IV, V, and VI, which are national summaries, as well as VII to XI, which are comparative tabulations covering particular large States.

Two notes of caution to the nonpolitical thinker are necessary:

1. These tables are no more than guides or indicators. For, were either of the proposed electoral plans in effect, the campaigns would have been planned and conducted quite differently and with considerably different results. Under the district plan, for example, both major parties would aim to win 20 to 30 States (40 to 60 electors) and 220 to 250 congressional districts (one elector each). This situation would nearly reverse the present conditions under which Presidential campaigns are conducted. Now all attention is focused on the large States like New York, Pennsylvania, California, Illinois, Ohio, Michigan, and New Jersey. Under the district plan New York as a State would be worth no more than Delaware as a State, although New York's 45 congressional districts, those that were doubtful, would certainly get more attention than Delaware's one congressional district. An interesting point here is that only 10 of New York's 43 to 45 congressional districts have changed party allegiance since 1922.

2. Elaborate efforts to correlate the popular vote with the electoral vote are meaningless and irrelevant unless those who attempt it want to destroy the Federal-national structure of the American Union, our greatest contribution to the knowledge of statecraft. A large part of the recent literature on electoral reform seems to have been bemused with attacking the electoral-college system because it did not reflect the popular vote. The truth is, in the light of the nature of the Union, the system's only fault lies in the general-ticket method of choosing electors within States. This single but grievous fault can be corrected by adopting the district plan as the method for their choice.

Table I, which follows here, compares the party electoral vote in the now 32 Northern States from 1948 back to 1900 by parties, under the present system and as those elections are recast under the Gossett (proportional) and Coudert (district) plans for electoral reform. Party gains and losses from the present system under the Gossett and Coudert plans are shown as well as the net advantage to the parties for each year. Because this is the section of the country in which the Republicans are strong, members of that party will note that their party is advantaged in this area by the Gossett plan only in years of desperate defeat; that is, 1936, 1932, and 1912. In the other 10 elections, both victories and defeats, the Coudert plan would have been the better. Since 187 of the 199 Republicans elected to the House of Representatives come from these 32 States, while the other 12 come from 6 of the other 16 States, these congressional districts are crucial territory for Republicans.

TABLE I.—*32 Northern States (other than border and Southern States)—Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportional plan) and Representative Coudert (district plan)*

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of—	
	Present system	Gossett plan [1]	Coudert plan [2]	Gossett plan	Coudert plan	Gossett plan	Coudert plan
1948:							
Republican	181	169.3	194	−11.7	13		24.7
Democrat	171	171.0	157		−14	11.0	
Other		11.7	1	11.7	1	10.7	
Total	352	352.0	352	0	0		
1944:							
Republican	99	170.7	201	71.7	102		30.3
Democrat	253	173.4	149	−79.6	−104	21.4	
Other		7.9	2	7.9	2	5.9	
Total	352	352.0	352	0	0		
1940:							
Republican	82	168.8	175	86.8	93		6.2
Democrat	272	183.8	174	−88.2	−98	9.8	
Other		1.4	5	1.4	5		3.6
Total	354	354.0	354	0	0		
1936:							
Republican	8	135.3	88	127.3	80	47.3	
Democrat	346	201.7	253	−144.3	−93		48.3
Other		14.0	13	14.0	13	1.0	
Total	354	354.0	354	0	0		
1932:							
Republican	59	150.5	126	91.5	67	24.5	
Democrat	295	191.0	223	−104.0	−72		32.0
Other		12.5	5	12.5	5	7.5	
Total	354	354.0	354	0	0		

[1] From Senator Taft's table in Congressional Record of Feb. 1, 1950.
[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates. (Congressional Directories and World Almanacs, 1935 and 1945 editions. The New York Times on 1948 election.)

TABLE I.—*32 Northern States (other than border and Southern States)—Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportional plan) and Representative Coudert (district plan)*—Continued

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of—	
	Present system	Gossett plan [1]	Coudert plan [2]	Gossett plan	Coudert plan	Gossett plan	Coudert plan
1928:							
Republican	326	207.5	293	−117.5	−32		85.5
Democrat	23	136.5	54	113.5	31	82.5	
Other		4.0	1	4.0	1	3.0	
Total	348	348.0	348	0	0		
1924:							
Republican	335	200.7	287	−134.3	−48		86.3
Democrat		77.8	54	77.8	54	23.8	
Other	13	69.5	7	56.5	−6	62.5	
Total	348	348.0	348	0	0		
1920:							
Republican	348	230.3	326	−117.7	−22		95.7
Democrat		101.4	21	101.4	21	80.4	
Other		16.3	1	16.3	1	15.3	
Total	348	348.0	348	0	0		
1916:							
Republican	247	172.4	234	−74.6	−13		61.6
Democrat	101	159.5	108	58.5	7	51.5	
Other		16.1	6	16.1	6	10.1	
Total	348	348.0	348	0	0		
1912:							
Republican	8	85.4	118	77.4	110		32.6
Democrat	252	130.6	201	−121.4	−51		70.4
Other	88	132.0	29	44.0	−59	103.0	
Total	348	348.0	348	0	0		
1908:							
Republican	294	172.0	247	−122.0	−47		75.0
Democrat	16	119.5	63	103.5	47	56.5	
Other		18.5		18.5		18.5	
Total	310	310.0	310	0	0		
1904:							
Republican	310	190.9	287	−119.1	−23		90.1
Democrat		98.7	23	98.7	23	75.7	
Other		20.4		20.4		20.4	
Total	310	310.0	310	0	0		
1900:							
Republican	278	161.2	231	−116.8	−47		69.8
Democrat	13	121.1	53	108.1	40	68.1	
Other		8.7	7	8.7	7	1.7	
Total	291	291.0	291	0	0		

[1] From Senator Taft's table in Congressional Record of Feb. 1, 1950.
[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates. (Congressional Directories and World Almanacs, 1935 and 1945 editions. The New York Times on 1948 election.)

Table II covers the five border States. This is sometimes doubtful territory. Under the present system Republicans won more than a majority of its electoral vote in five elections, 1904, 1908, 1920, 1924, 1928, but lost that position in the other eight elections under study, including the last five. It should be remembered, though, that none of these electoral votes were needed to elect Republican Presidents. These five States have a distinctly southern political complexion which varies in a degree from State to State and is considerably mottled by Baltimore and St. Louis. The section, from the Democratic standpoint, is less conservative than the South and much more conservative than the Democratic

territory in the North. In some instances, as in Maryland, Missouri, and Oklahoma, when the voters go conservative they vote Republican. The Gossett plan might give the Republicans from two-fifths to one-half of the electoral vote without a corresponding increase in congressional strength, a distortion in the opposite direction from the present system. While the Coudert plan is advantageous to the Democratic Party in these border States at this time, the Republicans would increase their electoral strength as they increased their congressional representation.

TABLE II.—*5 border States (Kentucky, Maryland, Missouri, Oklahoma, and West Virginia)—Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportional plan) and Representative Coudert (district plan)*

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of—	
	Present system	Gossett plan [1]	Coudert plan [2]	Gossett plan	Coudert plan	Gossett plan	Coudert plan
1948:							
Republican	8	21.9	7	13.9	−1	14.9	
Democrat	44	29.6	45	−14.4	1		15.4
Other		.5		.5		.5	
Total	52	52.0	52	0	0		
1944:							
Republican		24.1	11	24.1	11	13.1	
Democrat	52	27.9	41	−24.1	−11		13.1
Other							
Total	52	52.0	52	0	0		
1940:							
Republican		23.1	5	23.1	5	18.1	
Democrat	53	29.7	48	−23.3	−5		18.3
Other		.2		.2		.2	
Total	53	53.0	53	0	0		
1936:							
Republican		19.8	2	19.8	2	17.8	
Democrat	53	32.6	51	−20.4	−2		18.4
Other		.6		.6		.6	
Total	53	53.0	53	0	0		
1932:							
Republican		19.1		19.1		19.1	
Democrat	53	33.5	53	−19.5			19.5
Other		.4		.4		.4	
Total	53	53.0	53	0	0		
1928:							
Republican	57	33.4	39	−22.6	−18		5.6
Democrat		23.3	18	23.3	18	5.3	
Other		.3		.3		.3	
Total	57	57.0	57	0	0		
1924:							
Republican	47	27.2	27	−19.8	−20	.2	
Democrat	10	25.6	30	15.6	20		4.4
Other		4.2		4.2		4.2	
Total	57	57.0	57	0	0		
1920:							
Republican	44	30.1	40	−13.9	−4		9.9
Democrat	13	25.7	17	12.7	4	8.7	
Other		1.2		1.2		1.2	
Total	57	57.0	57	0	0		

[1] From Senator Taft's table in Congressional Record of Feb. 1, 1950.
[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates. (Congressional Directories and World Almanacs, 1935 and 1945 editions. The New York Times on 1948 elections.)

TABLE II. *5 border States (Kentucky, Maryland, Missouri, Oklahoma, and West Virginia) Comparison of presidential elections under present system with some elections recast under electoral reform plans of Representative Gossett (proportional plan) and Representative Coudert (district plan)* Con.

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of	
	Present system	Gossett plan[1]	Coudert plan[2]	Gossett plan	Coudert plan	Gossett plan	Coudert plan
1916:							
Republican	7	25.4	14	18.2	7	11.2	14.0
Democrat	80	52.0	43	28.0	37		
Other		9.6		9.6		9.6	
Total	87	87.0	87	0	0		
1912:							
Republican		18.7	10	18.7	10	8.7	20.2
Democrat	87	68.3	47	30.2	10		
Other		14.8		14.8		14.8	
Total	87	87.0	87	0	0		
1908:							
Republican	27	25.5	24	1.5	3	1.5	3.6
Democrat	26	25.5	29	.5	3		
Other		2.0		2.0		2.0	
Total	53	53.0	53	0	0		
1904:							
Republican	26	30.0	22	6.0	4		2.0
Democrat	20	24.7	24	4.7	4	7	
Other		1.3		1.3		1.3	
Total	46	46.0	46	0	0		
1900:							
Republican	14	21.5	18	7.5	4	3.5	4.3
Democrat	30	21.7	26	8.3	4		
Other		.8		.8		.8	
Total	44	44.0	44	0	0		

[1] From Senator Taft's table in Congressional Record of Feb. 1, 1930.
[2] Electors assumed elected where parties' Representatives were elected and States were carried by party-dedicated candidates. (Congressional Directories and World Almanacs, 1905 and 1913 editions. The New York Times on 1908 elections.)

Table III, covering the 11 Southern States, discloses the source of the additional electoral votes to be won by Republicans under the Gossett plan and without any commensurate increase in congressional strength, an even greater imbalance than would be produced in the border States. It is difficult to see how the conservative southern Democrats would give up electoral power while their northern Democratic colleagues were increasing their share of influence over the President, as would follow under the Gossett plan. Their political interest would seem to lie with the district plan. Reference back to table I shows how greatly northern Democrats would be strengthened in the party by the Gossett plan over the Coudert plan. Such would have been the case in 10 of the last 13 elections.

TABLE III. *11 Southern States (Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia) Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportionate plan) and Representative Cooper (district plan)*

Presidential election	Electoral method and vote			Gains and losses from present system		Strength of vote	
	Present system	Gossett plan[1]	Cooper plan[2]	Gossett plan	Cooper plan	Gossett plan	Cooper plan
1948							
Republican		20.2	2	20.2	2	28.7	
Democrat	88	67.2	87	20.8	1		20.8
Other	39	37.6	33	6	1	1.6	
Total	127	127.0	127	0	0		
1944							
Republican		29.0	2	29.0	2	27.0	
Democrat	127	91.4	125	33.6	2		31.6
Other		4.6		4.6		4.6	
Total	127	127.0	127	0	0		
1940							
Republican		22.7	2	22.7	2	20.7	
Democrat	124	99.5	122	24.2	2		22.2
Other		1.5		1.5		1.5	
Total	124	124.0	124	0	0		
1936							
Republican		20.5	2	20.5	2	14.5	
Democrat	124	101.0	122	21.0	2		19.0
Other		.5		.5		.5	
Total	124	124.0	124	0	0		
1932							
Republican		20.0	2	20.0	2	14.0	
Democrat	124	103.1	122	20.9	2		18.9
Other		.9		.9		.9	
Total	124	124.0	124	0	0		
1928							
Republican	62	51.0	17	−11.0	−45	34.0	
Democrat	64	71.8	109	7.8	45		37.2
Other		3.2		3.2		3.2	
Total	126	126.0	126	0	0		
1924							
Republican		30.9	3	30.9	3	27.9	
Democrat	126	88.0	123	−34.9	−3		37.0
Other		7.1		7.1		7.1	
Total	126	126.0	126	0	0		
1920							
Republican	12	39.5	9	27.5	−3	30.5	
Democrat	114	85.5	117	−28.5	3		31.5
Other		1.0		1.0		1.0	
Total	126	126.0	126	0	0		

[1] From Senator Taft's table in Congressional Record of Feb. 1, 1950.
[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates. (Congressional Directories and World Almanacs, 1935 and 1945 editions. The New York Times on 1948 elections.)

TABLE III.—*11 Southern States (Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia) Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportionate plan) and Representative Condert (district plan)* Continued

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of	
	Present system	Gossett plan[1]	Condert plan[2]	Gossett plan	Condert plan	Gossett plan	Condert plan
1916:							
Republican		50.0	4	50.0	4	23.0	
Democrat	130	91.2	122	41.8	4		27.8
Other		5.8	4	5.8	4	4.8	
Total	130	130.0	130	0	0		
1912:							
Republican		13.7	4	13.7	4	9.7	
Democrat	130	89.3	121	30.7	4		31.7
Other		27.0	5	27.0	1	27.0	
Total	130	130.0	130	0	0		
1908:							
Republican		31.3	6	31.3	6	27.3	
Democrat	130	81.8	114	18.2	6		47.2
Other		4.0	10	4.0	10	4.0	
Total	130	130.0	130	0	0		
1904:							
Republican		29.0	4	29.0	4	25.0	
Democrat	130	96.5	116	33.5	4		41.5
Other		4.5	10	4.5	10	4.0	
Total	130	130.0	130	0	0		
1900:							
Republican		34.6	4	34.6	4	30.6	
Democrat	112	73.4	108	37.6	4		34.6
Other		4.0	0	4.0	0	4.0	
Total	112	112.0	112	0	0		

[1] From Senator TAFT's table in Congressional Record of Feb. 1, 1950.

[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates. (Congressional Directories and World Almanacs, 1905 and 1905 editions. The New York Times on 1908 election.)

Table IV, covering all States, buries the sectional advantages and disadvantages shown in table I, II, and III. This table alone might mislead Republicans into seeing Republican advantage under the Gossett plan.

TABLE IV. *All States—Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportional plan) and Representative Goudert (district plan)*

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of	
	Present system	Gossett plan[1]	Goudert plan[2]	Gossett plan	Goudert plan	Gossett plan	Goudert plan
1948							
Republican	189	221.4	203	+32.4	+14	18.4	31.2
Democrat	303	252.8	289	−50.2	−14		
Other	39	51.8	39	+12.8		12.8	
Total	531	531.0	531	0	0		
1944							
Republican	99	224.8	214	+125.8	+115	9.8	20.3
Democrat	432	204.7	315	−142.3	−117		
Other		12.5	2	+12.5	+2	10.5	
Total	531	531.0	531	0	0		
1940							
Republican	82	214.6	182	+132.6	+100	12.6	31.7 1.9
Democrat	449	314.4	344	−135.7	−105		
Other		1.1	5	+1.1	+5		
Total	531	531.0	531	0	0		
1936							
Republican	8	175.6	92	+167.6	+84	83.6	83.7
Democrat	523	339.4	426	−183.7	−97		
Other		15.1	13	+15.1	+13	2.1	
Total	531	531.0	531	0	0		
1932							
Republican	59	189.6	128	+130.6	+69	61.6	59.4
Democrat	472	327.6	398	−144.4	−74		
Other		13.8	5	+13.8	+5	7.8	
Total	531	531.0	531	0	0		
1928							
Republican	444	291.9	349	−152.1	−95		57.1
Democrat	87	231.6	181	+144.6	+94	50.6	
Other		7.5	1	+7.5	+1	6.5	
Total	531	531.0	531	0	0		
1924							
Republican	382	278.8	317	−124.2	−65		58.2
Democrat	136	191.4	206	+55.4	+72		15.6
Other	13	60.8	7	+47.8	−6	53.8	
Total	531	531.0	531	0	0		
1920							
Republican	404	299.9	375	−104.1	−29		77.1
Democrat	127	212.6	155	+85.6	+28	57.6	
Other		18.5	1	+18.5	+1	17.5	
Total	531	531.0	531	0	0		
1916:							
Republican	254	223.6	251	−30.4	−3		27.4
Democrat	277	282.7	273	+5.7	−4	9.7	
Other		24.7	7	+24.7	+7	17.7	
Total	531	531.0	531	0	0		

[1] Hearings, House Judiciary Subcommittee No. 1, Feb. 9, 10, 11, 16, and 25, 1949; pp. 44 and 99.

[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates. (Congressional Directories and World Almanacs 1945 and 1945 editions. The New York Times on 1948 election.)

TABLE IV.—*All States—Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportional plan) and Representative Coudert (district plan)*—Con.

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of—	
	Present system	Gossett plan [1]	Coudert plan [2]	Gossett plan	Coudert plan	Gossett plan	Coudert plan
1912:							
Republican	8	113.8	131	105.8	123		17.2
Democrat	435	246.7	371	−188.3	−64		124.3
Other	88	170.5	29	82.5	−59	141.5	
Total	531	531.0	531	0	0		
1908:							
Republican	321	230.8	277	−90.2	−44		45.2
Democrat	162	226.8	206	64.8	44	20.8	
Other		25.4		25.4		25.4	
Total	483	483.0	483	0	0		
1904:							
Republican	336	240.5	313	−95.5	−23		72.5
Democrat	140	207.9	163	69.9	23	44.9	
Other		27.6		27.6		27.6	
Total	476	476.0	476	0	0		
1900:							
Republican	292	217.3	253	−74.7	−39		−35.7
Democrat	155	217.2	187	62.3	32	30.2	
Other		12.5	7	12.5	7	5.5	
Total	447	447.0	447	0	0		

[1] Hearings, House Judiciary Subcommittee No. 1, Feb. 9, 10, 11, 16, and 25, 1949; pp. 44 and 99.
[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates. (Congressional Directories and World Almanacs, 1935 and 1945 editions. The New York Times on 1948 election.)

Table V is a consolidated summary of the party gains and losses shown in tables I, II, III, and IV. Here in one place are collected the disadvantages of the Gossett plan with relation to Republicans and to border and southern Democrats. Republican national gains, in the main, are net after subtracting losses in Republican territory from Republican gains below the Mason and Dixon line. Likewise, under the Gossett plan, northern Democrats would make a greater contribution to the election of a Democrat President, while border and southern Democrats would make a lesser contribution. Consequently, northern Democrats would have greater influence with a Democratic President than would their border and southern colleagues in the party.

Altogether, then, Republicans in the North and Democrats below the Mason-Dixon line will find their political and patriotic interests to lie outside of the Gossett plan and inside the Coudert plan. Far better than the Gossett plan, the Coudert plan will reduce the political power of the metropolitan cities to their proper levels, to the great advantage of both parties, and permit greater interparty cohesion, letting the party dog wag its tail, rather than, as now, letting the tail wag the party dog.

TABLE V.—*Comparative summary of tables I to IV—Summary of party sectional gains and losses from present system indicated by electoral reform plans proposed by Representative Gossett (proportional) and Coudert (district)*

	32 Northern States		5 border States		11 Southern States		All 48 States	
	Gossett plan	Coudert plan	Gossett plan	Coudert plan	Gossett plan	Coudert plan	Gossett plan	Coudert plan
1948:								
Republican	−11.7	13	13.9	−1	30.2	2	32.4	14
Democrat	.....	−14	−14.4	1	−30.8	−1	−45.2	−14
Other	11.7	1	.5	.....	.6	−1	12.8	.....
1944:								
Republican	71.7	102	24.1	11	29.0	2	124.8	115
Democrat	−79.6	−104	−24.1	−11	−33.6	−2	−137.3	−117
Other	7.9	2	.....	.....	4.6	.....	12.5	2
1940:								
Republican	86.8	93	23.1	5	22.7	2	132.6	100
Democrat	−88.2	−98	−23.3	−5	−24.2	−2	−135.7	−105
Other	1.4	5	.2	.....	1.5	.....	3.1	5
1936:								
Republican	127.3	80	19.8	2	20.5	2	167.6	84
Democrat	−141.3	−93	−20.4	−2	−21.0	−2	−182.7	−97
Other	14.0	13	.6	.....	.5	.....	15.1	13
1932:								
Republican	91.5	67	19.1	.....	20.0	2	130.6	69
Democrat	−104.0	−72	−19.5	.....	−20.9	−2	−144.4	−74
Other	12.5	5	.4	.....	.9	.....	13.8	5
1928:								
Republican	−117.5	−32	−23.6	−18	−11.0	−45	−152.1	−95
Democrat	113.5	31	23.3	18	7.8	45	144.6	94
Other	4.0	1	.3	.....	3.2	.....	7.5	1
1924:								
Republican	−134.3	−48	−19.8	−20	30.9	3	−123.2	−65
Democrat	77.8	54	15.6	20	−38.0	−3	55.4	71
Other	56.5	−6	4.2	.....	7.1	.....	67.8	−6
1920:								
Republican	−117.7	−22	−13.9	−4	27.5	−3	−104.1	−29
Democrat	101.4	21	12.7	4	−28.5	3	85.6	28
Other	16.3	1	1.2	.....	1.0	.....	18.5	1
1916:								
Republican	−74.6	−13	18.2	7	26.0	3	−30.4	−3
Democrat	58.5	7	−21.0	−7	−31.8	−4	5.7	−4
Other	16.1	6	2.8	.....	5.8	1	21.7	7
1912:								
Republican	77.4	110	15.7	10	12.7	3	105.8	123
Democrat	−112.4	−31	−30.2	−10	−36.7	−3	−188.3	−64
Other	44.0	−59	14.5	.....	24.0	.....	82.5	−59
1908:								
Republican	−122.0	−47	−1.5	−3	33.3	6	−90.2	−44
Democratic	103.5	47	−.5	3	−38.2	−6	64.8	44
Other	18.5	.....	2.0	.....	4.9	.....	25.4	.....
1904:								
Republican	−119.1	23	−6.0	−4	29.6	4	−95.5	−23
Democratic	98.7	23	4.7	4	−35.5	−4	69.9	23
Other	20.4	.....	1.3	.....	5.9	.....	27.6	.....
1900:								
Republican	−116.8	.47	7.5	4	34.6	4	−74.7	−39
Democratic	108.1	40	−8.3	−4	−37.6	−4	62.3	32
Other	8.7	7	.8	.....	3.0	.....	12.5	7

Table VI underscores the points made above by comparing the net advantages and disadvantages of the parties under the Coudert plan as against the Gossett plan by political sections of the country (from tables I to IV). This table is limited to the last three presidential elections because elections prior to 1940 have historic rather than practical political interest or value. The shift of political power between 1932 and 1940, consequent upon the extraordinary increase of voters in the metropolitan cities, has changed the basic political conditions prevailing before 1932.

TABLE VI.—*Comparative net electoral advantage—Comparison by groups of States of net advantage to parties of Goudert (district) plan over Gossett (proportional) plan in the last 3 presidential elections (from tables I to IV)*

	32 Northern States			5 border States [2]	11 Southern States [3]	All States
	8 large [1]	Other 24	Total (32)			
Republican Party:						
1948	10.5	14.2	24.7	−14.9	−28.2	−18.4
1944	13.5	16.8	30.3	−13.1	−27.0	−9.8
1940	3.0	3.2	6.2	−18.1	−20.7	−32.6
Democratic Party:						
1948	−3.0	−11.0	−14.0	15.4	29.8	31.2
1944	−7.2	−17.2	−24.4	13.1	31.6	20.3
1940	−3.3	−6.5	−9.8	18.3	22.2	30.7
Other parties:						
1948	−7.5	−3.2	−10.7	−.5	−1.6	12.8
1944	−6.3	.4	−5.9	----------	−4.6	10.5
1940	.3	3.3	3.6	−.2	−1.5	1.9

[1] New York, Pennsylvania, Illinois, California, Ohio, Massachusetts, Michigan, and New Jersey.
[2] Kentucky, Maryland, Missouri, Oklahoma, and West Virginia
[3] Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

Tables VII, VIII, IX, X, and XI cover the individual States of New York, Pennsylvania, Ohio, Illinois, and Massachusetts for the last three presidential elections and 1912, 1908, and 1900. They will be of particular interest to Members of Congress from these States, inasmuch as all 5 State are included in the "8 large" Northern States in table VI.

TABLE VII.—*New York—Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportional plan) and Representative Coudert (district plan)*

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of—	
	Present system	Gossett plan [1]	Coudert plan [2]	Gossett plan	Coudert plan	Gossett plan	Coudert plan
1948:							
Republican	47	21.6	22	−25.4	−25		0.4
Democrat		21.2	24	21.2	24		2.8
Other		4.2	1	4.2	1	3.2	
Total	47	47.0	47	0	0		
1944:							
Republican		22.2	22	22.2	22	.2	
Democrat	47	18.4	24	−28.6	−23		5.6
Other		6.4	1	6.4	1	5.4	
Total	47	47.0	47	0	0		
1940:							
Republican		22.6	19	22.6	19	3.6	
Democrat	47	24.4	27	−22.6	−20		2.6
Other			1		1		1.0
Total	47	47.0	47	0	0		
1912:							
Republican		12.9	11	12.9	11	1.9	
Democrat	45	18.6	33	−26.4	−12		14.4
Other		13.5	1	13.5	1	12.5	
Total	45	45.0	45	0	0		
1908:							
Republican	39	20.7	28	−18.3	−11		7.3
Democrat		15.9	11	15.9	11	4.9	
Other		2.4		2.4		2.4	
Total	39	39.0	39	0	0		
1900:							
Republican	36	19.1	22	−16.9	−14		2.9
Democrat		15.5	14	15.5	14	1.5	
Other		1.4		1.4		1.4	
Total	36	36.0	36	0	0		

[1] From Senator Taft's table in Congressional Record of Feb. 1, 1950.
[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates (Congressional Directories and World Almanacs, 1935 and 1945 editions, The New York Times on 1948 election).

TABLE VIII.—*Pennsylvania—Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportional plan) and Representative Goudert (district plan)*

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of—	
	Present system	Gossett plan [1]	Goudert plan [2]	Gossett plan	Goudert plan	Gossett plan	Goudert plan
1948:							
Republican	35	17.6	19	−17.2	−16		1.2
Democrat		16.4	16	16.4	16	0.4	
Other		.8		.8		.8	
Total	35	35.0	35	0	0		
1944:							
Republican		16.9	18	16.9	18		1.1
Democrat	35	17.9	17	−17.1	−18	.9	
Other		.2		.2		.2	
Total	35	35.0	35	0	0		
1940:							
Republican		16.7	15	16.7	15	1.7	
Democrat	36	19.2	21	−16.8	−15		1.6
Other		.1		.1		.1	
Total	36	36.0	36	0	0		
1912:							
Republican		8.5	20	8.5	20		11.5
Democrat		12.3	12	12.3	12	.3	
Other	38	17.2	6	−20.8	−32	11.2	
Total	38	38.0	38	0	0		
1908:							
Republican	34	20.0	29	−14.0	−5		9.0
Democrat		12.0	5	12.0	5	7.0	
Other		2.0		2.0		2.0	
Total	34	34.0	34	0	0		
1900:							
Republican	32	19.2	28	−12.8	−4		8.8
Democrat		11.5	4	11.5	4	7.5	
Other		1.3		1.3		1.3	
Total	32	32.0	32	0	0		

[1] From Senator Taft's table in Congressional Record of Feb. 1, 1950.
[2] Electors assumed elected where parties' representatives were elected and States were carried by presidential candidates. (Congressional Directories and World Almanacs, 1935 and 1945 editions. The New York Times on 1948 elections.)

TABLE IX.—*Ohio—Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportional plan) and Representative Coudert (district plan)*

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of—	
	Present system	Gossett plan [1]	Coudert plan [2]	Gossett plan	Coudert plan	Gossett plan	Coudert plan
1948:							
Republican		12.3	11	12.3	11	1.3	
Democrat	25	12.4	14	−12.6	−11		1.6
Other		.3		.3		.3	
Total	25	25.0	25	0	0		
1944:							
Republican	25	12.6	19	−12.4	−6		6.4
Democrat		12.5	6	12.5	6	6.5	
Other		−.1		−.1			.1
Total	25	25.0	25	0	0		
1940:							
Republican		12.4	12	12.4	12	.4	
Democrat	26	13.6	14	−12.4	−12		.4
Other							
Total	26	26.0	26	0	0		
1912:							
Republican		6.4	3	6.4	3	3.4	
Democrat	24	9.8	21	−14.2	−3		11.2
Other		7.8		7.8		7.8	
Total	24	24.0	24	0	0		
1908:							
Republican	23	11.7	15	−11.3	−8		3.3
Democrat		10.3	8	10.3	8	2.3	
Other		1.0		1.0		1.0	
Total	23	23.0	23	0	0		
1900:							
Republican	23	12.0	19	−11.0	−4		7.0
Democrat		10.4	4	10.4	4	6.4	
Other		.6		.6		.6	
Total	23	23.0	23	0	0		

[1] From Senator Taft's table in Congressional Record of Feb. 1, 1950.
[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates (Congressional Directories and World Almanacs, 1935 and 1945 editions. The New York Times on 1948 elections.)

TABLE X.—*Illinois—Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Gossett (proportional plan) and Representative Goudert (district plan)*

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of	
	Present system	Gossett plan [1]	Goudert plan [2]	Gossett plan	Goudert plan	Gossett plan	Goudert plan
1948:							
Republican	28	13.8	14	13.8	14		0.2
Democrat		14.0	14	−14.0	−14		
Other		.2		.2		0.2	
Total	28	28.0	28	0	0		
1944:							
Republican	28	13.4	15	−14.6	−13		1.6
Democrat		14.4	13	14.4	13	1.4	
Other		.2		.2		.2	
Total	28	28.0	28	0	0		
1940:							
Republican	29	14.1	15	14.1	15		1.9
Democrat		14.8	14	−14.2	−15	1.8	
Other		.1		.1		.1	
Total	29	29.0	29	0	0		
1912:							
Republican		6.4	4	6.4	4	2.4	
Democrat	29	10.2	22	−18.8	−7		11.8
Other		12.4	3	12.4	3	9.4	
Total	29	29.0	29	0	0		
1908:							
Republican	27	14.7	21	−12.3	−6		6.3
Democrat		10.5	6	10.5	6	4.5	
Other		1.8		1.8		1.8	
Total	27	27.0	27	0	0		
1900:							
Republican	24	12.6	13	−11.4	−11		.4
Democrat		10.6	11	10.6	11		.4
Other		.8		.8		.8	
Total	24	24.0	24	0	0		

[1] From Senator Taft's table in Congressional Record of Feb. 1, 1939.

[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates (Congressional Directories and World Almanacs, 1939 and 1945 editions. The New York Times on 1948 elections).

TABLE XI.—*Massachusetts—Comparison of presidential elections under present system with same elections recast under electoral reform plans of Representative Goseett (proportional plan) and Representative Coudert (district plan)*

Presidential election	Electoral method and vote			Gains and losses from present system		Net advantage of	
	Present system	Goseett plan[1]	Coudert plan[2]	Goseett plan	Coudert plan	Goseett plan	Coudert plan
1948:							
Republican		6.9	8	6.9	8		1.1
Democrat	16	8.8	8	−7.2	−8	0.8	
Other		.3		.3		.3	
Total	16	16.0	16	0	0		
1944:							
Republican		7.5	10	7.5	10		2.5
Democrat	16	8.4	6	−7.6	−10	2.4	
Other		1		1		1	
Total	16	16.0	16	0	0		
1940:							
Republican		7.9	9	7.9	9		1.1
Democrat	17	9.0	8	−8.0	−9	1.0	
Other		.1		.1		.1	
Total	17	17.0	17	0	0		
1912:							
Republican		5.8	8	5.8	8		2.2
Democrat	18	6.4	10	−11.6	−8		3.6
Other		5.8		5.8		5.8	
Total	18	18.0	18	0	0		
1908:							
Republican	16	9.3	13	−6.7	−3		3.7
Democrat		5.4	3	5.4	3	2.1	
Other		1.3		1.3		1.3	
Total	16	16.0	16	0	0		
1900:							
Republican	15	8.6	12	−6.4	−3		3.4
Democrat		5.6	3	5.6	3	2.6	
Other		.8		.8		.8	
Total	15	15.0	15	0	0		

[1] From Senator Taft's table in Congressional Record of Feb. 1, 1950.

[2] Electors assumed elected where parties' Representatives were elected and States were carried by presidential candidates (Congressional Directories and World Almanacs, 1905 and 1945 editions—The New York Times on 1948 elections).

Respectfully submitted.

J. HARVIE WILLIAMS.

JUNE 19, 1951.

MANY QUESTIONS RAISED BY ELECTORAL REFORMS

(Extension of remarks of Hon. Frederic R. Coudert, Jr., of New York, in the House of Representatives, Wednesday, March 15, 1950)

Mr. COUDERT. Mr. Speaker, under leave to extend my remarks, I include an article by Mr. Arthur Krock which appeared in the New York Times of March 12, 1950:

MANY QUESTIONS RAISED BY ELECTORAL REFORMS—HOUSE TAKES A CRITICAL VIEW OF LODGE AMENDMENTS FOR THE PROPORTIONAL PLAN ACCEPTED BY THE SENATE—POLITICS IS A MAJOR FACTOR

(By Arthur Krock)

WASHINGTON, March 11.—The road to reform in the method of choosing Presidents and Vice Presidents of the United States is littered with the wrecks of previous attempts. Though the inequalities and other defects of the present system are generally conceded, it has been protected from change for more than a hundred years by a mixture of natural American conservatism where the letter of the Constitution is concerned and a bipartisan political combination effected by what some major party politicians believed to be self-interest.

This same combination, unless overwhelming public opinion favors a change and registers itself as it rarely does on such issues, may once more defeat the most promising movement in this respect since the old method of choosing electors by districts was replaced by that of awarding all of the electors of a State to the candidates for President and Vice President who get a plurality, however small, over all others.

The current effort is the result of spadework begun in the early thirties by the then Representative Clarence Lea, of California, in which he was later joined by Senator Henry Cabot Lodge, of Massachusetts; Senator Estes Kefauver, of Tennessee (then a Representative); Representative Ed Gossett, of Texas; and a few more. At the last session of this Congress, Mr. Lodge began the reform drive, of which he has become the spearhead and which owes its progress chiefly to him, that culminated when the Senate unexpectedly, on February 1, 1950, approved—64 to 27—the submission to the people of the Lodge-Gossett amendment to the Constitution. This would prorate a State's electors in proportion to the popular vote cast for the several national candidates.

BLOCKED IN 7-TO-4 VOTE

But now it has been blocked in the Rules Committee of the House where 7 of the 11 members have refused to give the amendment a privileged place on the docket. The fact that three southern Democrats and one Republican from Mr. Lodge's State (Representative Christian A. Herter) voted to bring out the bill, and that four northern Democrats, and three northern Republicans voted not to, illustrates how the professional politicians think it would operate.

Together with Senator Robert A. Taft, of Ohio, a number of northern Republicans view the amendment this way from the standpoint of purely party interest:

It would always give the Democratic national candidates some electors in the popular doubtful States outside the South which over the years have gone more often to the Republicans en bloc under the present system. These electors would far outnumber the few which the Republican ticket might hope to pick up in the South by the pro rata method of the Lodge-Gossett amendment.

The southern Democrats generally favor the amendment on this same reasoning; also because they think the South would regain its old place in the Democratic Party councils through the obvious fact that henceforth movements like that of the 1948 Dixiecrats would carry a larger defeat potential for the national party ticket.

BIPARTISAN OPPOSITION

A roving bipartisan band opposes any electoral change, partly because of natural conservatism, partly because they fear the Lodge-Gossett plan would encourage the formation of splinter parties. (Curiously enough, its authors are confident it would end the power of shifting, usually radical groups which now hold or assert a large enough following to tilt an entire State bloc of electors.)

In agreement with this bipartisan band of rovers are many leaders of such groups.

Despite this mixup of views, the Lodge-Gossett amendment has the support of President Truman and the spokesmen of Americans for Democratic Action—both very practical when it comes to politics.

Yet long experience with the present system has shown its operation can, and has, put Presidents in the White House with less than a majority of the popular vote and thrown national elections into the House of Representatives. If the Republican farm States from Ohio to Iowa had not given Mr. Truman the small pluralities he got there this would have happened again in 1948.

SUPPORT FOR ALTERNATIVE

However, since the Senate approved submission of the Lodge-Gossett amendment (it must pass both branches by two-thirds and be approved by three-fourths of the State legislatures before it can become a part of the Constitution), it has been subjected to less selfish and nonpartisan scrutiny on a merit test. This has produced some support for the alternative reform proposed by Representative F. R. Coudert, Jr., of New York City, which reverts to the original method and was described by Madison as the one "mostly, if not exclusively, in view when the Constitution was framed and adopted."

The Coudert amendment provides that each State be divided before a national election into electoral districts, which could have the same boundaries as the districts in which Members of the House are chosen. These districts would equal in number those which elect a Member of the House of Representatives. Each of these districts would then, by majority or plurality, choose a single presidential and vice presidential elector, and the entire voting population of the State would select two others at large.

MANY SUPERIORITIES

The superiorities of this method over the Lodge-Gossett amendment are many. It dispels the factor of proportional representation which in practice, especially in Europe and the New York City Council, has given radical splinter groups disproportionate power to block and confuse. It maintains the geographical constituencies and gives an equal voice to equal units of the population rather than to equal aggregations of those who go to the polls. To make the district groupings wholly equitable, Lucius Wilmerding, Jr., of Princeton, who is a leading authority on electoral reform in this country, would require Congress to create, for national elections uses only, compact and contiguous districts containing, as nearly as practicable, an equal number of inhabitants.

Until, in Jackson's time, the system of submitting statewide tickets which acquired all a State's electors by a mere plurality became general—it is now universal—the Coudert-Wilmerding proposal was the practice. One of its best effects is to prevent an entire State bloc of electors going to a candidate merely because of bad weather in the rural districts or because of the inequitable weight of an acute local issue in one district.

But the Coudert plan has found no favor with the political leaders of the House, one probable reason being that it is concerned entirely with sound reform and not with possible political consequences to the major parties and their internal factions as they now exist. The virtues of the proposal from the standpoint of the public interest, which Mr. Wilmerding has made plain, have thus far evoked no strong interest in the House.

ELECTORAL COLLEGE REFORM

Extension of remarks of Hon. Frederic R. Coudert, Jr., of New York, in the House of Representatives, Tuesday, January 6, 1953

Mr. COUDERT. Mr. Speaker, under leave to extend my remarks in the Record, I include an article by Arthur Krock, Esq., able and distinguished chief of the Washington bureau of the New York Times, in support of House Joint Resolution 1, a resolution proposing electoral college reform. This article appeared in the New York Times on December 26, 1952:

"IN THE NATION

"(By Arthur Krock)

"GOOD USES IMPUTED TO THE LANDSLIDE DELUSION

"WASHINGTON, December 25.—The renewed effort which Representative Coudert, of New York, proposes to make in the 83d Congress for the reform of the system by which presidential and vice presidential electors are chosen may at last produce a basic change in the method. In the last Republican Congress, the 80th, a reform differing from Coudert's was put through the Senate by Henry Cabot Lodge, Jr., coauthor of it with Representative Gossett, of Texas, but was killed in the House.

"The arguments in favor of change are many and impressive. One of them is that the electors of a State (45 is New York's quota) should not all be won by the national candidates who poll its highest vote, no matter how small the margin. Under the Lodge-Gossett plan the electors would be divided among those who poll more than a certain prescribed minimum of the State total, on the basis of the ratio of this total cast for each. Under the Coudert plan two electors at large would be given to the national nominees who led in the State poll and the others would be selected in the congressional districts by the voting majorities in each. But a common purpose of both proposals is to have the vote of the electoral college more nearly reflect the division of the popular vote in the States.

"Either plan would have given General Eisenhower a smaller, and Governor Stevenson a larger, share of the 952 electoral tally, which by the present arrangement was 442 to 89. And in the future the word 'landslide' would have to be redefined in the dictionary of politics. Though Stevenson got only 44.6 percent of the popular vote, lost 4 southern and 2 border States, and carried no State outside the South, more than 25 million voted for him. The contention of his supporters that hence he was not defeated by a landslide would undoubtedly have been more persuasive if either the Lodge-Gossett or Coudert proposal had been the law of November 4.

"POLITICS AND PSYCHOLOGY

"But the use of the word 'landslide' in such circumstances has now found a defender in Edwin G. Boring, professor of psychology at Harvard. He agrees that the present system can work to elect minority Presidents when the voting is close (this has happened three times). But for the most part, he writes, it amplifies the difference. Though a landslide, in its generally accepted definition, is a delusion, says Professor Boring in a letter to this department, 'I raise the question as to when [this delusion] may be politically useful.' And this is the answer:

"'We Americans are apt to pride ourselves on accepting the result of a democratic election. That is partly, I think, a consequence of our kind of a two-party system, in which the two parties have no extreme permanent difference in policy (both mix conservatives with liberals) and jockey around the center of an average public opinion to find issues, so that the outs can try to get the ins out and the ins can try to keep the outs out. * * * So perhaps the first thing is that the party that is in should not make a vital difference down in the roots of a man's value system. But on top of that there is the effect of the electoral college which magnifies differences.

"'Would you not think that, under these circumstances of no persistent fundamental difference between the major but intense feeling during the campaign, that there is good psychological value in representing a close victory as being decisive?'

"SOME EFFECTS OF THE CHANGE

"Professor Boring thinks that the psychological advantage he sees in the existing method by which the results are distorted should be remembered in the debate on the Coudert and Lodge-Gossett proposals. Certainly the point has been neglected by both the defenders and critics of the present system, if indeed it has ever occurred to any of them. But, though it has merit and is the contribution of a distinguished psychologist, probably it will not in itself persuade Congress to leave the electoral process unchanged. And against it are these strong points made for Coudert's plan:

"By abolishing the State election 'unit rule' it will end the predominance of the big-city States in the nominating conventions as well as in the national elections. The electoral college every 4 years will reflect the same popular divisions that are reflected in the Congress chosen at the same time, and in the same proportion. It will conform to the constitutional provision that makes all States equal in the Senate, with two Members each, and unequal in the House, where the States have Members in ratio to their population. The President and the Congress elected with him would derive their offices from visible, and the same, constituencies, and pressure groups would have no more and no less influence at the White House than at the Capitol because their weight in assisting the President and the Members of Congress to get elected would be exactly the same. No more could this weight be used to tilt the balance in the big-city States that can furnish blocs of delegates sufficient to nominate national candidates and blocs of electors sufficient to elect them.

"In a recent issue of Human Events the above points and others were made by J. Harvie Williams, who, with Dr. Lucius Wilmerding, Jr., of Princeton, and Prof. Ruth C. Silva, of Pennsylvania State College, is an active endorser of the substance of the Coudert plan."

[From the Richmond News Leader, Saturday, December 27, 1952]

NEW PATH TO ELECTORAL REFORM

No feature of the American Constitution has produced more dissatisfaction or inspired more demands for improvement than the provisions of the 12th amendment looking toward the election of a President. From the very earliest days of the Republic, it has been apparent to most critical observers that the electoral college was not functioning as the framers of the Constitution had intended; but for nearly 150 years, since the 12th amendment was ratified in 1804, electoral reform has been like the weather. Everybody has talked about it, but nobody has done anything to improve it.

Now Congressman Frederic R. Coudert, Jr., of New York's 17th district, has come forward with a new scheme (or more accurately, an old scheme revived) that makes sense.

He would retain the electoral college, but would elect its members not in statewide blocs of 12 or 15 or 20 at a time, but precisely as the Nation now chooses its Senate and House of Representatives. Two electors would be chosen by all the voters from a State as a whole (corresponding to the election of Senators) and one elector would be named from each of a State's congressional districts, by the voters of that district.

As an example, if the Coudert amendment had been operative in the presidential election last month, Richmonders who favored Governor Stevenson would have voted for Mrs. A. E. Cooley and Horace H. Edwards, who were the Democratic electors at large, plus Lloyd C. Bird, who was the Democrats' elector for the 3d district. Richmonders who favored General Eisenhower would have voted not for a full slate of 12 Republican electors, but only for H. H. Lawson, Jr., and Warren B. French, Jr., the Republican electors at large, plus Hobart E. Duggins, GOP elector for the 3d district. In the neighboring 8th district, Democrats would have voted for Mrs. Cooley and Mr. Edwards plus W. Taylor Murphy, the 8th district elector, while Republicans would have voted for Mr. Lawson, Mr. French, and Richard Middleton, the 8th district GOP leader.

The upshot would have been that Virginia's electoral vote would not have been 12-0 in favor of Eisenhower, but 10-2 in favor of Eisenhower. The Democratic electors from the 2d and 4th districts would have come to the electoral college and cast their ballots for Stevenson, thus reflecting the majority sentiment of voters within the 2d and 4th districts.

In 1948, President Truman carried 6 of Virginia's 9 congressional districts, but lost the 6th, 7th, and 8th by substantial margins. If the Coudert amendment had been operative, the Old Dominion's electoral vote, would have been 8 for Truman (6 districts plus 2 at large), 3 for Dewey.

Mr. Coudert's plan is a substantial improvement over the Lodge-Gossett proposal which passed the Senate in the 81st Congress. This scheme (it died in the House) would have made a State's electoral vote directly proportionate to its popular vote. On this basis, Virginia's electoral vote would have been cast, 7 for Eisenhower (56.5 percent of the popular vote), 5 for Stevenson (43.5 percent). The trouble with the Lodge-Gossett plan is that it would continue to leave excessive political power concentrated in a few urban areas.

Ours is not—though many persons often forget it—a pure democracy, nor is our Federal Government even a republic operated along wholly democratic lines. The legislative branch of our Government is set up deliberately to reflect the fact that our Nation is not only a union of people, but also a union of States. Hence each State, regardless of population, stands equally with every other State in the Senate; only in the House of Representatives is population as such reflected for purposes of republican government.

Congressman Coudert's scheme would preserve this vital parallel in the choice of an electoral college and the naming of a President. According to Lucius Wilmerding, writing in Political Science Quarterly, the district system for electors was advocated by Hamilton, Jefferson, Madison, Gallatin, J. Q. Adams, Van Buren, Webster, and many others. Applied to the United States of 1952, the system would afford the same protection to small States, in the election of a President, that they now have in the makeup of Congress as a whole. Yet simultaneously, majority sentiment would be reflected, in the election of a President, just as it now is reflected—by congressional districts—in the makeup of Congress as a whole.

We commend Mr. Coudert's amendment to Virginia spokesmen in the 83d Congress. Reform of the electoral college along the lines he has proposed would represent a notable modernization of the antiquated system which now obtains.

THE PENNSYLVANIA STATE COLLEGE,
SCHOOL OF THE LIBERAL ARTS,
State College, Pa., May 27, 1951.

Hon. FRANCIS E. WALTER,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN WALTER: On May 16, Mr. Williams in Representative Coudert's office called me and asked if I would prepare a statement for the hearings on House Joint Resolution 11 and House Joint Resolution 19. Since it has been impossible to assemble all of the statistical material before the date set for the hearings, I am enclosing 2 statements—1 on each resolution—to be included in the record. Mr. Besterman, the committee's legislative assistant, told me yesterday that the record is still open.

You will notice that the material on House Joint Resolution 11 includes tables of tabulations of the electoral vote under House Joint Resolution 11 for the elections of 1916–48. Mr. Besterman tells me that you do not have any data of this nature. I also have tabulations of the popular vote cast for presidential electors in each congressional district for the elections of 1916–48. This latter data is so voluminous that I have not enclosed it. I shall be happy, however, to send these tabulations to you for the committe's use if you will let me know that you wish to see them.

I would prefer that the enclosed material be included in the record as my statements rather than as a part of the statements of a member. When the record is printed would you please send me a copy.

I shall greatly appreciate your kindness in this matter.

Sincerely yours,

RUTH C. SILVA, *Assistant Professor.*

HOUSE JOINT RESOLUTION 11, EIGHTY-SECOND CONGRESS, FIRST SESSION

I. THE PROBLEM

Both House Joint Resolution 11 (by Mr. Coudert) and 19 (by Mr. Gossett), appear to be designed to deal with that problem which seems to concern some Republicans and a number of southern Democrats. In recent years the general-ticket system of choosing presidential electors has compelled both parties to nominate presidential candidates who advocate policies designed to win the votes of conscious ethnic, religious, and economic groups in metropolitan centers, where these minorities hold the balance of power in populous States with large blocs of electoral votes. Consequently, all recent presidential candidates have supported civil liberties, social security, collective bargaining, etc. On the other hand, the Congress is elected in a constituency that makes congressional support for such a program unlikely, for a majority of Senators and Representatives are elected in smaller cities, towns, suburban, and rural areas. (To illustrate: In 1948, 171 Republicans were elected to the House. Although, and perhaps because, many Democratic congressional candidates disavowed certain

parts of the presidential program, 216 of the 264 Democrats elected to the House polled more votes in their districts or States than did Mr. Truman.)

It is not at all certain that a realinement of parties along the lines suggested by Senator Mundt will enable the so-called conservatives to elect a presidential candidate. According to the 1950 census, there are 11 States outside the South having a central city of more than one-half million population. In 1952, these States will control 242 electoral votes, only 24 short of the necessary 266. A study of the last three elections shows that the Republicans have difficulty in carrying these States without a third-party movement which draws on Democratic strength in the metropolitan areas.

TABLE I

State	Electoral votes, 1952	1940	1944	1948
1. California	32	D	D	D
2. Illinois	27	D	D	D
3. Maryland	9	D	D	[1] R
4. Massachusetts	16	D	D	D
5. Michigan	20	[1] R	D	[1] R
6. Minnesota	11	D	D	D
7. Missouri	13	D	D	D
8. New York	45	D	D	[1] R
Subtotal	173			
9. Ohio	25	D	R	D
10. Pennsylvania	32	D	D	R
11. Wisconsin	12	D	R	D
Grand total	242			

[1] Won by Republicans by mere plurality due to third-party vote.

In the last 3 presidential elections, there were 33 statewide contests in these 11 States. The Democrats won 26 and the Republicans 7. But the Republicans would have won only 3 if Norman Thomas had not run in 1940 and if Henry Wallace had not been a candidate in 1948. Democratic success in these 11 States has been due to the Democrats' margin in the metropolitan counties. Actually, the Republicans have usually carried the "out-State" area:

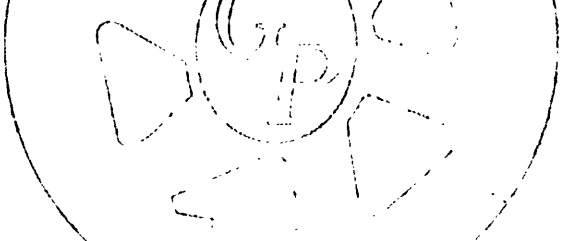

TABLE II.—*Republican percentage of total popular vote in recent presidential elections*

State	Year	Entire State	Metropolitan counties [1]	All other counties	All other counties excluding "third party" vote
1. California	1948	47.1	46.4	47.9	49.95
	1944	43.0	42.0	44.1	44.35
	1940	41.3	40.3	42.5	42.96
2. Illinois	1948	49.2	45.2	54.4	54.85
	1944	48.1	42.5	54.7	55.79
	1940	48.5	44.4	53.7	53.04
3. Maryland	1948	49.6	43.7	54.0	54.77
	1944	48.1	40.8	54.2	54.20
	1940	40.8	35.6	45.7	45.96
4. Massachusetts	1948	42.2	26.7	45.7	47.60
	1944	47.0	37.2	49.3	49.41
	1940	46.4	36.1	48.8	49.02
5. Michigan	1948	49.2	38.0	56.7	58.25
	1944	49.2	36.1	57.8	58.18
	1940	50.0	37.7	56.4	56.76
6. Minnesota	1948	39.9	42.9	39.0	40.12
	1944	46.9	43.7	47.8	48.21
	1940	47.7	45.5	48.3	48.68
7. Missouri	1948	41.5	35.1	43.3	43.40
	1944	48.4	39.5	50.9	51.00
	1940	47.5	41.8	49.1	49.22
8. New York	1948	45.3	35.6	58.3	[2] 61.24
	1944	47.3	39.3	58.8	[2] 58.95
	1940	48.0	39.7	59.1	[2] 59.29
9. Ohio	1948	49.2	39.4	50 3	50.74
	1944	50.2	39.7	52.4	52.40
	1940	47.8	37.6	49.8	49.80
10. Pennsylvania	1948	50.9	45.9	54.2	55.18
	1944	48.4	41.6	52.6	52.89
	1940	46.3	40.5	49.8	50.01
11. Wisconsin	1948	46.3	40.4	48.4	49.60
	1944	50.4	40.1	54.1	54.45
	1940	48.3	37.8	52.0	52.55
Average	1948	46.4	39.9	50.2	51.43
	1944	47.9	40.0	52.4	52.71
	1940	46.6	39.7	50.4	50.66

[1] The metropolitan counties are as follows: (1) Los Angeles and San Francisco, Calif.; (2) Cook (Chicago), Ill.; (3) Baltimore City, Md.; (4) Suffolk (Boston), Mass.; (5) Wayne (Detroit), Mich.; (6) St. Louis City, Mo.; (7) Hennepin (Minneapolis), Minn.; (8) 5 counties of New York City and Erie (Buffalo), N. Y.; (9) Cuyahoga (Cleveland), Ohio; (10) Allegheny (Pittsburgh) and Philadelphia, Pa.; (11) Milwaukee, Wis.
[2] Third party vote cast for Democratic candidate included as Democratic vote.

From table I it can be seen that under the general ticket system the Democrats are likely to win 173 electoral votes in these 11 Northern and border States with another 69 electoral votes in question. Furthermore, the Democrats will doubtless pick up an additional 50 electoral votes in 10 other Northern States, making a total of 223.

TABLE III

State	Electoral votes, 1952	1940	1944	1948
1. Arizona	4	D	D	D
2. Connecticut	8	D	D	[1] R
3. Idaho	4	D	D	D
4. Montana	4	D	D	D
5. Nevada	3	D	D	D
6. New Mexico	4	D	D	D
7. Oregon	6	D	D	[1] R
8. Rhode Island	4	D	D	D
9. Utah	4	D	D	D
10. Washington	9	D	D	D
Total	60			

[1] State carried by Republicans by mere plurality due to third-party vote.

The total electoral votes in tables I and III are 202, or 26 more than a majority excluding 128 votes of the 11 Southern States and also excluding the 26 votes of three border States (Kentucky, Oklahoma, and West Virginia).

In the event of a third-party movement which would decrease Democratic strength in urban areas (an event which will be more unlikely if the Southern States cease to be in Democratic ranks), the Republicans would have some chance of picking up 88 of these 223 electoral votes which otherwise will probably be cast for the Democratic candidate:

Connecticut	8
Maryland	9
Michigan	20
New York	45
Oregon	6
Total	88

In contrast, the Republicans will be relatively certain of 30 electoral votes:

TABLE IV

State	Electoral votes, 1952	1940	1944	1948
1. Kansas	8	R	R	R
2. Maine	5	R	R	R
3. Nebraska	6	R	R	R
4. North Dakota	4	R	R	R
5. South Dakota	4	R	R	R
6. Vermont	3	R	R	R
Total	30			

In addition to these 30 votes, the Republicans have some chance of winning 124 electoral votes in the 10 "uncertain" States in the North:

TABLE V

State	Electoral votes, 1952	1940	1944	1948
1. Colorado	6	R	R	D
2. Delaware	3	D	D	R
3. Indiana	13	R	R	[1] R
4. Iowa	10	R	R	D
5. New Hampshire	4	D	D	R
6. New Jersey	16	D	D	R
7. Ohio [2]	25	D	R	D
8. Pennsylvania [2]	32	D	D	R
9. Wisconsin [2]	12	D	R	D
10. Wyoming	3	D	R	D
Total	124			

[1] Carried by Republicans by a mere plurality.
[2] Also listed in table I.

Summary:

Likely Democratic (tables I and III)	223
Likely Republican (table IV)	30
Doubtful (table V)	124
11 Southern States	128
Kentucky, Oklahoma, and West Virginia	26
Total	531

II. EXPLANATION OF HOUSE JOINT RESOLUTION 11

House Joint Resolution 11 would change this situation by changing the presidential constituency. The resolution provides that each State shall choose a

number of electors equal to the whole number of Senators and Representatives to which the State is entitled. This provision is no change from the present system. These electors are to be chosen, however, in the same manner as the State's Senators and Representatives. This means that one presidential elector would be chosen in each congressional district and the remainder in the State at large. In 1948, for example, Mr. Dewey carried three congressional districts in Virginia and, consequently, would have won 3 of Virginia's 11 electoral votes. Mr. Truman carried six districts and would have won 6 electoral votes plus 2 more electoral votes for carrying the State.

TABLE VI.—*Popular vote cast for presidential electors in each congressional district of Virginia in 1948*

	Democrats	Republicans	Other
Congressional District 1	18,558	11,655	3,798
Congressional District 2	27,214	15,053	4,195
Congressional District 3	23,956	20,073	6,450
Congressional District 4	15,930	6,375	5,769
Congressional District 5	16,918	14,871	7,754
Congressional District 6	20,748	22,397	6,407
Congressional District 7	18,055	21,125	4,217
Congressional District 8	27,354	30,152	6,041
Congressional District 9	32,063	30,369	1,769
Total	200,786	172,070	46,400

Before analyzing House Joint Resolution 11, I would like to insert into the record a table showing the distribution of electoral votes under House Joint Resolution 11 for the elections 1916–48.

TABLE VII.—*Distribution of electoral votes in 48 States*

Election	Electoral votes won under present system			Distribution of electoral votes under H. J. Res. 11			
	Democrat	Republican	Other	Democrat	Republican	Other	Uncertain
1948	303	189	39	292	187	39	13
1944	432	99	0	277	158	0	96
1940	449	82	0	302	128	0	101
1936	523	8	0	412	41	0	78
1932	472	59	0	351	74	0	106
1928	87	444	0	96	311	0	91
1924	136	382	13	113	289	15	84
1920	127	404	0	129	305	0	97
1916	277	254	0	264	168	0	99

You will note that in each election some electoral votes are listed as "uncertain." Tabulation of the electoral vote under the House Joint Resolution 11 involves, first, determining which counties, cities, wards, and precincts are in each congressional district on the date of the election in question. Then one can proceed to tabulate the popular vote for Presidential electors in each district. The actual tabulation involves a tremendous amount of laborious and detailed work. For example, tabulation of the Presidential vote in the 10 congressional districts of Los Angeles County requires dealing with statistics on four to eight Presidential candidates in 6,500 separate precincts. Some of the necessary statistics can be secured in printed form, some may be secured by microfilming official records, but some can be secured only by sending a researcher to the proper county or city office. This is an expensive proposition and our funds ran out before we completed the tabulations. Thus, it is necessary to list some of the electoral votes as "uncertain."

The tabulations completed thus far were made possible by a grant from the Pennsylvania State College Research Council, by personal funds, and by assistance from the Library of Congress and from a number of city and county election boards.

For the most part, the "uncertain" electoral votes are those involved in metropolitan communities such as Cook County, Ill., New York City, etc.

PART III—CONCLUSIONS

Any conclusions I may make are only tentative pending completion of the tabulations.

My first conclusion is that House Joint Resolution 11 would probably make it possible for a party to win the Presidency without carrying the metropolitan areas—especially if the State legislatures continue to gerrymander the States against these metropolitan areas.

TABLE VIII.—*Distribution of electoral votes in 11 northern and border States having a central city of ½ million* [1]

Election	Electoral votes won under present system			Distribution of electoral votes under H. J. Res. 11			
	Democrat	Republican	Other	Democrat	Republican	Other	Uncertain
1948	132	109	.....	118	110	.....	13
1944	204	37	.....	72	89	.....	80
1940	223	19	.....	92	72	.....	78
1936	242	.....	.....	146	27	.....	69
1932	206	36	.....	110	49	.....	83
1928	18	215	.....	16	139	.....	78
1924	.....	220	13	5	147	13	68
1920	.....	233	.....	2	150	.....	81
1916	63	170	.....	53	99	.....	81

[1] See tables I and II for a list of these States.

My second conclusion is that House Joint Resolution 11 would tend to favor the party which failed to carry the State. For example:

1948—Illinois: The Democrats carried the State but the Republicans would win at least 12 and probably 18 of the 28 electoral votes.

1948—California: The Democrats carried the State but the Republicans would have captured 13 of the 25 electoral votes.

1948—Ohio: The Democrats carried the State but the Republicans would have captured 13 of the 25 electoral votes.

1944—Illinois: The Democrats carried the State, yet the Republicans would have won at least 14 of the 28 electoral votes.

1928—Tennessee and Texas: The Republicans carried each State, but the Democrats and Republicans would have won an equal number of electoral votes in each State.

1924—Kentucky: Although the Republicans carried the State, the Democrats would have won 7 electoral votes to the Republicans' 6.

1920—Tennessee: The Republicans carried the State, but the Republicans and the Democrats would each have secured 6 electoral votes.

There are a number of other cases similar to the eight examples given above.

My third conclusion is that House Joint Resolution 11, like House Joint Resolution 19, would make Presidential elections closer contests by enlarging the electoral vote of the defeated candidate.

TABLE IX.—*Electoral vote of defeated party*

REPUBLICANS

Elections	Electoral vote won under present system	Electoral vote under H. J. Res. 11	Uncertain electoral votes under H. J. Res. 11
1948	189	[1] 187	13
1944	99	158	99
1940	82	128	101
1936	8	41	78
1932	59	74	100
1916	254	168	99

DEMOCRATS

1928	87	96	91
1924	136	143	84
1920	127	139	97

[1] Probably 105, because the Republicans would likely receive 6 of the 13 "uncertain" votes, see appendix B.

My fourth conclusion is in the nature of a guess. It is impossible to tell whether House Joint Resolution 11 would actually operate to the advantage of either party until the tabulation of the Presidential vote in the metropolitan congressional districts is completed and until other elections are studied. One may, however, hazard two guesses:

(1) The plan may enable the Republicans to win the Presidency without carrying the metropolitan areas. This is especially true if: (*a*) The States involved continue to be gerrymandered in favor of the Republicans as they have been in the past, and if (*b*) a realinement makes it possible for the Republicans to carry more congressional districts in the South.

(2) On the other hand, House Joint Resolution 11, like House Joint Resolution 19, may operate to the disadvantage of the Republicans—and for the same reasons. It may be that in years when the Republicans can win a national plurality in the popular election, they would trade 100 electoral votes (more or less) in the North for half a dozen in the South. This could mean, as in the case of House Joint Resolution 19, that the Republicans would be denied the Presidency despite their popular plurality. This assumes, of course, no political realinement in the South.

Which of these two guesses is more likely to be correct, I am not prepared to say at this time.

In conclusion I would like to insert 10 appendixes into the record at this point.

APPENDIX A (1948)

State	Total electoral vote	Electoral vote under H. J. Res. 11				Comments
		Democrat	Republican	Other	Uncertain	
1. Alabama	11			11		9 districts and 2 at large.
2. Arizona	4	4				2 districts and 2 at large.
3. Arkansas	9	9				7 districts and 2 at large.
4. California	25	12	13			23 districts and 2 at large.
5. Colorado	6	5	1			4 districts and 2 at large.
6. Connecticut	8	2	6			5 districts and 3 at large.
7. Delaware	3		3			3 at large.
8. Florida	8	7	1			6 districts and 2 at large.
9. Georgia	12	12				10 districts and 2 at large.
10. Idaho	4	4				2 districts and 2 at large.
11. Illinois	28	3	12		13	26 districts and 2 at large.
12. Indiana	13	5	8			11 districts and 2 at large.
13. Iowa	10	7	3			8 districts and 2 at large.
14. Kansas	8	1	7			6 districts and 2 at large.
15. Kentucky	11	10	1			9 districts and 2 at large.
16. Louisiana	10			10		8 districts and 2 at large.
17. Maine	5		5			3 districts and 2 at large.
18. Maryland	8	4	4			6 districts and 2 at large.
19. Massachusetts	16	12	4			14 districts and 2 at large.
20. Michigan	19	6	13			17 districts and 2 at large.
21. Minnesota	11	11				9 districts and 2 at large.
22. Mississippi	9			9		7 districts and 2 at large.
23. Missouri	15	14	1			13 districts and 2 at large.
24. Montana	4	4				2 districts and 2 at large.
25. Nebraska	6		6			4 districts and 2 at large.
26. Nevada	3	3				3 at large.
27. New Hampshire	4		4			2 districts and 2 at large.
28. New Jersey	16	6	10			14 districts and 2 at large.
29. New Mexico	4	4				4 at large.
30. New York	47	23	24			45 districts and 2 at large.
31. North Carolina	14	13	1			12 districts and 2 at large.
32. North Dakota	4		4			4 at large.
33. Ohio	25	12	13			22 districts and 3 at large.
34. Oklahoma	10	9	1			8 districts and 2 at large.
35. Oregon	6	2	4			4 districts and 2 at large.
36. Pennsylvania	35	13	22			33 districts and 2 at large.
37. Rhode Island	4	4				2 districts and 2 at large.
38. South Carolina	8			8		6 districts and 2 at large.
39. South Dakota	4		4			2 districts and 2 at large.
40. Tennessee	12	9	2	1		10 districts and 2 at large.
41. Texas	23	23				21 districts and 2 at large.
42. Utah	4	4				2 districts and 2 at large.
43. Vermont	3		3			3 at large.
44. Virginia	11	8	3			9 districts and 2 at large.
45. Washington	8	8				6 districts and 2 at large.
46. West Virginia	8	8				6 districts and 2 at large.
47. Wisconsin	12	8	4			10 districts and 2 at large.
48. Wyoming	3	3				3 at large.
Total	531	292	187	39	13	
Actual electoral vote	531	303	189	39		

Breakdown of vote	Democrat	Republican
11 States of solid South: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia	81	7
5 border States: Kentucky, Maryland, Missouri, Oklahoma, and West Virginia	45	7
9 Northern States having central city over ½ million population in 1950 census: (1) California—Los Angeles and San Francisco; (2) Illinois—Chicago; (3) Massachusetts—Boston; (4) Michigan—Detroit; (5) Minnesota—Minneapolis; (6) New York—Buffalo and New York City; (7) Ohio—Cleveland; (8) Pennsylvania—Philadelphia and Pittsburgh; (9) Wisconsin—Milwaukee	100	105
23 Northern, nonmetropolitan States	66	68
Total	292	187

Appendix B

In appendix A, the 13 electoral votes in Cook County are not accounted for, because the popular vote cast for Presidential electors in these 13 congressional districts has not been tabulated. However, an estimate shows that the Democrats would have won 7 and the Republicans 6 of these votes, making a total of 299 electoral votes for the Democrats and 193 for the Republicans.

Cook and Lake Counties, Ill.—1948: Estimates of popular vote cast for

Cook and Lake Counties, Ill.—1948: Estimates of popular vote cast for Presidential electors

	Truman	Dewey		Truman	Dewey
1	98,205	46,625	10	78,144	118,127
2	91,199	92,204	11	80,359	84,708
3	90,756	87,948	12	88,361	107,212
4	89,117	89,177			
5	114,036	47,255	13:		
6	127,284	58,022	Cook	35,149	94,590
7	132,840	51,582	Lake	22,192	39,456
8	100,601	58,845			
9	90,822	79,415	Thirteenth	57,341	134,046

These estimates were made as follows: First, it was found that 8.072 percent of Cook County's total Democratic congressional vote was cast in the first district. Therefore, 8.072 percent of Cook County's vote for Truman was assigned to the first district. This process was repeated in each congressional district for each presidential candidate.

Source: Illinois Secretary of State, Official Vote of the State of Illinois Cast November 2, 1948, pp. 8–9, 27.

APPENDIX C (1944)

State	Total electoral vote	Electoral vote under H. J. Res. 11				Comments
		Democrat	Republican	Other	Uncertain	
1. Alabama	11	11				9 districts and 2 at large.
2. Arizona	4	4				4 at large.
3. Arkansas	9	9				7 districts and 2 at large.
4. California	25	12	1		12	23 districts and 2 at large.
5. Colorado	6	1	5			4 districts and 2 at large.
6. Connecticut	8	5	1		2	5 districts and 3 at large.
7. Delaware	3	3				3 at large.
8. Florida	8	8				6 districts and 2 at large.
9. Georgia	12	12				10 districts and 2 at large.
10. Idaho	4	4				2 districts and 2 at large.
11. Illinois	28	4	14		10	25 districts and 3 at large.
12. Indiana	13	2	11			11 districts and 2 at large.
13. Iowa	10	2	8			8 districts and 2 at large.
14. Kansas	8		8			6 districts and 2 at large.
15. Kentucky	11	10	1			9 districts and 2 at large.
16. Louisiana	10	8			2	8 districts and 2 at large.
17. Maine	5		5			3 districts and 2 at large.
18. Maryland	8	3	2		3	6 districts and 2 at large.
19. Massachusetts	16	6	1		9	14 districts and 2 at large.
20. Michigan	19	3	10		6	17 districts and 2 at large.
21. Minnesota	11	5	4		2	9 districts and 2 at large.
22. Mississippi	9	9				7 districts and 2 at large.
23. Missouri	15	8	5		2	13 districts and 2 at large.
24. Montana	4	4				2 districts and 2 at large.
25. Nebraska	6	1	5			4 districts and 2 at large.
26. Nevada	3	3				3 at large.
27. New Hampshire	4	2			2	2 districts and 2 at large.
28. New Jersey	16	8	3		5	14 districts and 2 at large.
29. New Mexico	4	4				4 at large.
30. New York	47	3	13		31	45 districts and 2 at large.
31. North Carolina	14	14				12 districts and 2 at large.
32. North Dakota	4		4			4 at large.
33. Ohio	25	5	15		5	22 districts and 3 at large.
34. Oklahoma	10	8	2			8 districts and 2 at large.
35. Oregon	6	4	2			4 districts and 2 at large.
36. Pennsylvania	35	19	16			33 districts and 2 at large.
37. Rhode Island	4	2			2	2 districts and 2 at large.
38. South Carolina	8	8				6 districts and 2 at large.
39. South Dakota	4		4			2 districts and 2 at large.
40. Tennessee	12	10	2			10 districts and 2 at large.
41. Texas	23	23				21 districts and 2 at large.
42. Utah	4	4				2 districts and 2 at large.
43. Vermont	3		3			3 at large.
44. Virginia	11	11				9 districts and 2 at large.
45. Washington	8	4	1		3	6 districts and 2 at large.
46. West Virginia	8	7	1			6 districts and 2 at large.
47. Wisconsin	12	4	8			10 districts and 2 at large.
48. Wyoming	3		3			3 at large.
Total	531	277	158	0	96	
Actual electoral vote	531	432	99			

Breakdown of vote	Democrat	Republican
11 States of solid South	123	2
5 border States	36	11
9 Northern States having central city over ½ million	61	82
23 Northern, nonmetropolitan States	57	63
Total	277	158

APPENDIX D (1940)

State	Total electoral vote	Electoral vote under H. J. Res. 11				Comments
		Democrat	Republican	Other	Uncertain	
1. Alabama	11	11				9 districts and 2 at large.
2. Arizona	3	3				3 at large.
3. Arkansas	9	9				7 districts and 2 at large.
4. California	22	11	1		10	20 districts and 2 at large.
5. Colorado	6	2	4			4 districts and 2 at large.
6. Connecticut	8	6			2	5 districts and 3 at large.
7. Delaware	3	3				3 at large.
8. Florida	7	7				5 districts and 2 at large.
9. Georgia	12	12				10 districts and 2 at large.
10. Idaho	4	4				2 districts and 2 at large.
11. Illinois	29	8	11		10	25 districts and 4 at large.
12. Indiana	14	3	9		2	12 districts and 2 at large.
13. Iowa	11	2	9			9 districts and 2 at large.
14. Kansas	9		9			7 districts and 2 at large.
15. Kentucky	11	10	1			9 districts and 2 at large.
16. Louisiana	10	8			2	8 districts and 2 at large.
17. Maine	5	2	3			3 districts and 2 at large.
18. Maryland	8	4			4	6 districts and 2 at large.
19. Massachusetts	17	7	2		8	15 districts and 2 at large.
20. Michigan	19	1	12		6	17 districts and 2 at large.
21. Minnesota	11	5	4		2	9 districts and 2 at large.
22. Mississippi	9	9				7 districts and 2 at large.
23. Missouri	15	10	3		2	13 districts and 2 at large.
24. Montana	4	4				2 districts and 2 at large.
25. Nebraska	7	1	6			5 districts and 2 at large.
26. Nevada	3	3				3 at large.
27. New Hampshire	4	2			2	2 districts and 2 at large.
28. New Jersey	16	5	1		10	14 districts and 2 at large.
29. New Mexico	3	3				3 at large.
30. New York	47	5	13		29	43 districts and 4 at large.
31. North Carolina	13	13				11 districts and 2 at large.
32. North Dakota	4		4			4 at large.
33. Ohio	26	13	8		5	22 districts and 4 at large.
34. Oklahoma	11	9	2			8 districts and 3 at large.
35. Oregon	5	5				3 districts and 2 at large.
36. Pennsylvania	36	24	12			34 districts and 2 at large.
37. Rhode Island	4	2			2	2 districts and 2 at large.
38. South Carolina	8	8				6 districts and 2 at large.
39. South Dakota	4		4			2 districts and 2 at large.
40. Tennessee	11	10	1			9 districts and 2 at large.
41. Texas	23	23				21 districts and 2 at large.
42. Utah	4	4				2 districts and 2 at large.
43. Vermont	3		3			3 at large.
44. Virginia	11	11				9 districts and 2 at large.
45. Washington	8	5			3	6 districts and 2 at large.
46. West Virginia	8	8				6 districts and 2 at large.
47. Wisconsin	12	4	6		2	10 districts and 2 at large.
48. Wyoming	3	3				3 at large.
Total	531	302	128	0	101	
Actural electoral vote	531	449	82			

Breakdown of vote	Democratic	Republican
11 States of solid South	121	1
5 border States	41	6
9 Northern States having central city over ½ million	78	69
23 northern, nonmetropolitan States	62	52
Total	302	128

APPENDIX E (1936)

State	Total electoral vote	Electoral vote under H. J. Res. 11				Comments
		Democrat	Republican	Other	Uncertain	
1. Alabama	11	11				9 districts and 2 at large.
2. Arizona	3	3				3 at large.
3. Arkansas	9	9				7 districts and 2 at large.
4. California	22	12			10	20 districts and 2 at large.
5. Colorado	6	6				4 districts and 2 at large.
6. Connecticut	8	8				5 districts and 3 at large.
7. Delaware	3	3				3 at large.
8. Florida	7	7				5 districts and 2 at large.
9. Georgia	12	12				10 districts and 2 at large.
10. Idaho	4	4				2 districts and 2 at large.
11. Illinois	29	17	2		10	25 districts and 4 at large.
12. Indiana	14	12			2	12 districts and 2 at large.
13. Iowa	11	11				9 districts and 2 at large.
14. Kansas	9	7	2			7 districts and 2 at large.
15. Kentucky	11	10	1			9 districts and 2 at large.
16. Louisiana	10	8			2	8 districts and 2 at large.
17. Maine	5		5			3 districts and 2 at large.
18. Maryland	8	4			4	6 districts and 2 at large.
19. Massachusetts	17	7	2		8	15 districts and 2 at large.
20. Michigan	19	11	2		6	17 districts and 2 at large.
21. Minnesota	11	9			2	9 districts and 2 at large.
22. Mississippi	9	9				7 districts and 2 at large.
23. Missouri	15	14	1			13 districts and 2 at large.
24. Montana	4	4				2 districts and 2 at large.
25. Nebraska	7	7				5 districts and 2 at large.
26. Nevada	3	3				3 at large.
27. New Hampshire	4	3	1			2 districts and 2 at large.
28. New Jersey	16	15	1			14 districts and 2 at large.
29. New Mexico	3	3				3 at large.
30. New York	47	5	13		29	43 districts and 4 at large.
31. North Carolina	13	13				11 districts and 2 at large.
32. North Dakota	4	4				4 at large.
33. Ohio	26	26				22 districts and 4 at large.
34. Oklahoma	11	11				9 districts and 3 at large.
35. Oregon	5	5				3 districts and 2 at large.
36. Pennsylvania	36	29	7			34 districts and 2 at large.
37. Rhode Island	4	2			2	2 districts and 2 at large.
38. South Carolina	8	8				6 districts and 2 at large.
39. South Dakota	4	4				2 districts and 2 at large.
40. Tennessee	11	10	1			9 districts and 2 at large.
41. Texas	23	23				21 districts and 2 at large.
42. Utah	4	4				2 districts and 2 at large.
43. Vermont	3		3			3 at large.
44. Virginia	11	11				9 districts and 2 at large.
45. Washington	8	5			3	6 districts and 2 at large.
46. West Virginia	8	8				6 districts and 2 at large.
47. Wisconsin	12	12				10 districts and 2 at large.
48. Wyoming	3	3				3 at large.
Total	531	412	41	0	78	
Actual electoral vote.	531	523	8			

Breakdown of vote	Democrat	Republican
11 States of solid South	121	1
5 border States	47	2
9 Northern States having central city over ½ million	128	26
23 northern, nonmetropolitan States	116	12
Total	412	41

APPENDIX F (1932)

State	Total electoral vote	Electoral vote under H. J. Res. 11				Comments
		Democrat	Republican	Other	Uncertain	
1. Alabama	11	11				9 districts and 2 at large.
2. Arizona	3	3				3 at large.
3. Arkansas	9	9				7 districts and 2 at large.
4. California	22	11	1		10	20 districts and 2 at large.
5. Colorado	6	6				4 districts and 2 at large.
6. Connecticut	8		6		2	5 districts and 3 at large.
7. Delaware	3		3			3 at large.
8. Florida	7	7				4 districts and 3 at large.
9. Georgia	12	12				10 districts and 2 at large.
10. Idaho	4	4				2 districts and 2 at large.
11. Illinois	29	16	3		10	25 districts and 4 at large.
12. Indiana	14	12			2	12 districts and 2 at large.
13. Iowa	11	11				9 districts and 2 at large.
14. Kansas	9	9				7 districts and 2 at large.
15. Kentucky	11	11				All at large.
16. Louisiana	10	8			2	8 districts and 2 at large.
17. Maine	5		5			3 districts and 2 at large.
18. Maryland	8	4			4	6 districts and 2 at large.
19. Massachusetts	17				17	15 districts and 2 at large.
20. Michigan	19	10	3		6	17 districts and 2 at large.
21. Minnesota	11	11				All at large.
22. Mississippi	9	9				7 districts and 2 at large.
23. Missouri	15	15				All at large.
24. Montana	4	4				2 districts and 2 at large.
25. Nebraska	7	7				5 districts and 2 at large.
26. Nevada	3	3				3 at large.
27. New Hampshire	4		2		2	2 districts and 2 at large.
28. New Jersey	16	2	4		10	14 districts and 2 at large.
29. New Mexico	3	3				3 at large.
30. New York	47	4	14		29	43 districts and 4 at large.
31. North Carolina	13	13				11 districts and 2 at large.
32. North Dakota	4	4				4 at large.
33. Ohio	26	15	6		5	22 districts and 4 at large.
34. Oklahoma	11	11				8 districts and 3 at large.
35. Oregon	5	5				3 districts and 2 at large.
36. Pennsylvania	36	14	22			34 districts and 2 at large.
37. Rhode Island	4	2			2	2 districts and 2 at large.
38. South Carolina	8	8				6 districts and 2 at large.
39. South Dakota	4	4				2 districts and 2 at large.
40. Tennessee	11	9	2			9 districts and 2 at large.
41. Texas	23	23				18 districts and 5 at large.
42. Utah	4	4				2 districts and 2 at large.
43. Vermont	3		3			3 at large.
44. Virginia	11	11				All at large.
45. Washington	8	5			3	6 districts and 2 at large.
46. West Virginia	8	8				6 districts and 2 at large.
47. Wisconsin	12	10			2	10 districts and 2 at large.
48. Wyoming	3	3				3 at large.
Total	531	331	74	0	106	
Actual electoral vote.	531	472	59			

Breakdown of vote	Democrat	Republican
11 States solid South	120	2
5 border States	49	0
9 Northern States having central city over ½ million	91	49
23 Northern, nonmetropolitan States	91	23
Total	351	74

APPENDIX G (1928)

State	Total electoral vote	Electoral vote under H. J. Res. 11				Comments
		Democrat	Republican	Other	Uncertain	
1. Alabama	12	7	5			10 districts and 2 at large.
2. Arizona	3		3			3 at large.
3. Arkansas	9	9				7 districts and 2 at large.
4. California	13	9			4	11 districts and 2 at large.
5. Colorado	6		6			4 districts and 2 at large.
6. Connecticut	7		7			5 districts and 2 at large.
7. Delaware	3		3			3 at large.
8. Florida	6	1	5			4 districts and 2 at large.
9. Georgia	14	12	2			12 districts and 2 at large.
10. Idaho	4		4			2 districts and 2 at large.
11. Illinois	29		19		10	25 districts and 4 at large.
12. Indiana	15		15			13 districts and 2 at large.
13. Iowa	13		13			11 districts and 2 at large.
14. Kansas	10		10			8 districts and 2 at large.
15. Kentucky	13	1	12			11 districts and 2 at large.
16. Louisiana	10	8			2	8 districts and 2 at large.
17. Maine	6		6			4 districts and 2 at large.
18. Maryland	8		4		4	6 districts and 2 at large.
19. Massachusetts	18				18	16 districts and 2 at large.
20. Michigan	15		11		4	13 districts and 2 at large.
21. Minnesota	12	1	9		2	10 districts and 2 at large.
22. Mississippi	10	10				8 districts and 2 at large.
23. Missouri	18	1	17			16 districts and 2 at large.
24. Montana	4		4			2 districts and 2 at large.
25. Nebraska	8		8			6 districts and 2 at large.
26. Nevada	3		3			3 at large.
27. New Hampshire	4		2		2	2 districts and 2 at large.
28. New Jersey	14		7		7	12 districts and 2 at large.
29. New Mexico	3		3			3 at large.
30. New York	45		16		29	43 districts and 2 at large.
31. North Carolina	12	3	9			10 districts and 2 at large.
32. North Dakota	5		5			3 districts and 2 at large.
33. Ohio	24		19		5	22 districts and 2 at large.
34. Oklahoma	10	1	9			8 districts and 2 at large.
35. Oregon	5		5			3 districts and 2 at large.
36. Pennsylvania	38	4	34			36 districts and 2 at large.
37. Rhode Island	5	2			3	3 districts and 2 at large.
38. South Carolina	9	9				7 districts and 2 at large.
39. South Dakota	5		5			3 districts and 2 at large.
40. Tennessee	12	6	6			10 districts and 2 at large.
41. Texas	20	10	10			18 districts and 2 at large.
42. Utah	4		4			2 districts and 2 at large.
43. Vermont	4		4			Do.
44. Virginia	12	1	11			10 districts and 2 at large.
45. Washington	7		5		2	5 districts and 2 at large
46. West Virginia	8		8			6 districts and 2 at large
47. Wisconsin	13	1	10		2	11 districts and 2 at large
48. Wyoming	3		3			3 at large.
Total	531	96	341	0	94	
Actual electoral vote	531	87	444			

Breakdown of vote	Democratic	Republican
11 States solid South	76	48
5 border States	3	50
9 Northern States having central city over ½ million	15	118
23 northern, nonmetropolitan States	2	125
Total	96	341

APPENDIX H (1924)

State	Total electoral vote	Electoral vote under H. J. Res. 11				Comments
		Democrat	Republican	Other	Uncertain	
1. Alabama	12	12				10 districts and 2 at large.
2. Arizona	3		3			3 at large.
3. Arkansas	9	9				7 districts and 2 at large.
4. California	13		8	1	4	11 districts and 2 at large.
5. Colorado	6		6			4 districts and 2 at large.
6. Connecticut	7		7			5 districts and 2 at large.
7. Delaware	3		3			3 at large.
8. Florida	6	6				4 districts and 2 at large.
9. Georgia	14	14				12 districts and 2 at large.
10. Idaho	4		4			2 districts and 2 at large.
11. Illinois	29		19		10	25 districts and 4 at large.
12. Indiana	15	1	14			13 districts and 2 at large.
13. Iowa	13		13			11 districts and 2 at large.
14. Kansas	10		10			8 districts and 2 at large.
15. Kentucky	13	7	6			11 districts and 2 at large.
16. Louisiana	10	8			2	8 districts and 2 at large.
17. Maine	6		6			4 districts and 2 at large.
18. Maryland	8	1	3		4	6 districts and 2 at large.
19. Massachusetts	18		13		5	16 districts and 2 at large.
20. Michigan	15		11		4	13 districts and 2 at large.
21. Minnesota	12		8	2	2	10 districts and 2 at large.
22. Mississippi	10	10				8 districts and 2 at large.
23. Missouri	18	4	11		3	16 districts and 2 at large.
24. Montana	4		4			2 districts and 2 at large.
25. Nebraska	8		8			6 districts and 2 at large.
26. Nevada	3		3			3 at large.
27. New Hampshire	4		2		2	2 districts and 2 at large.
28. New Jersey	14		7		7	12 districts and 2 at large.
29. New Mexico	3		3			3 at large.
30. New York	45		10		20	43 districts and 2 at large.
31. North Carolina	12	12				10 districts and 2 at large.
32. North Dakota	5		3	2		3 districts and 2 at large.
33. Ohio	24		19		5	22 districts and 2 at large.
34. Oklahoma	10	8	2			8 districts and 2 at large.
35. Oregon	5		5			3 districts and 2 at large.
36. Pennsylvania	38		38			36 districts and 2 at large.
37. Rhode Island	5		2		3	3 districts and 2 at large.
38. South Carolina	9	9				7 districts and 2 at large.
39. South Dakota	5		5			3 districts and 2 at large.
40. Tennessee	12	10	2			10 districts and 2 at large.
41. Texas	20	20				18 districts and 2 at large.
42. Utah	4		4			2 districts and 2 at large.
43. Vermont	4		4			2 districts and 2 at large.
44. Virginia	12	12				10 districts and 2 at large.
45. Washington	7		5		2	5 districts and 2 at large.
46. West Virginia	8		8			6 districts and 2 at large.
47. Wisconsin	13		1	10	2	11 districts and 2 at large.
48 Wyoming	3		3			3 at large.
Total	531	143	289	15	84	
Actual electoral vote.	531	136	382	13		

Breakdown of votes	Democrat	Republican
11 States solid South	122	2
5 border States	10	30
9 Northern States having central city over ½ million	0	133
23 Northern, nonmetropolitan States	1	124
Total	143	289

APPENDIX I (1920)

State	Total electoral vote	Electoral vote under H. J. Res. 11				Comments
		Democrat	Republican	Other	Uncertain	
1. Alabama	12	12				10 districts and 2 at large.
2. Arizona	3		3			3 at large.
3. Arkansas	9	9				7 districts and 2 at large.
4. California	13		9		4	11 districts and 2 at large.
5. Colorado	6		6			4 districts and 2 at large.
6. Connecticut	7		7			5 districts and 2 at large.
7. Delaware	3		3			3 at large.
8. Florida	6	6				4 districts and 2 at large.
9. Georgia	14	14				12 districts and 2 at large.
10. Idaho	4		4			2 districts and 2 at large.
11. Illinois	29		19		10	25 districts and 4 at large.
12. Indiana	15		15			13 districts and 2 at large.
13. Iowa	13		13			11 districts and 2 at large.
14. Kansas	10		10			8 districts and 2 at large.
15. Kentucky	13	10	3			11 districts and 2 at large.
16. Louisiana	10	7	1		2	8 districts and 2 at large.
17. Maine	6		6			4 districts and 2 at large.
18. Maryland	8	1	3		4	6 districts and 2 at large.
19. Massachusetts	18				18	16 districts and 2 at large.
20. Michigan	15		11		4	13 districts and 2 at large.
21. Minnesota	12		10		2	10 districts and 2 at large.
22. Mississippi	10	10				8 districts and 2 at large.
23. Missouri	18	1	14		3	16 districts and 2 at large.
24. Montana	4		4			2 districts and 2 at large.
25. Nebraska	8		8			6 districts and 2 at large.
26. Nevada	3		3			3 at large.
27. New Hampshire	4		2		2	2 districts and 2 at large.
28. New Jersey	14		7		7	12 districts and 2 at large.
29. New Mexico	3		3			3 at large.
30. New York	45		16		29	43 districts and 2 at large.
31. North Carolina	12	12				
32. North Dakota	5		5			10 districts and 2 at large.
33. Ohio	24		19		5	22 districts and 2 at large.
34. Oklahoma	10	2	8			8 districts and 2 at large.
35. Oregon	5		5			5 districts and 2 at large.
36. Pennsylvania	38		38			32 districts and 6 at large.
37. Rhode Island	5		2		3	3 districts and 2 at large.
38. South Carolina	9	9				7 districts and 2 at large.
39. South Dakota	5		5		2	3 districts and 2 at large.
40. Tennessee	12	6	6			10 districts and 2 at large.
41. Texas	20	19	1			18 districts and 2 at large.
42. Utah	4		4			2 districts and 2 at large.
43. Vermont	4		4			2 districts and 2 at large.
44. Virginia	12	11	1			10 districts and 2 at large.
45. Washington	7		5		2	5 districts and 2 at large.
46. West Virginia	8		8			6 districts and 2 at large.
47. Wisconsin	13		11		2	11 districts and 2 at large.
48. Wyoming	3		3			3 at large.
Total	531	129	305	0	97	
Actual electoral vote.	531	127	404			

Breakdown of vote	Democrat	Republican
11 States of solid South	115	9
5 border States	14	36
9 Northern States having a central city over 1½ million	0	133
23 Northern States, nonmetropolitan States	0	127
Total	129	305

APPENDIX J (1916)

State	Total electoral vote	Electoral vote under H. J. Res. 11				Comments
		Democrat	Republican	Other	Uncertain	
1. Alabama	12	12				10 districts and 2 at large.
2. Arizona	3	3				3 at large.
3. Arkansas	9	9				7 districts and 2 at large
4. California	13	8	4		4	11 districts and 2 at large.
5. Colorado	6	6				4 districts and 2 at large
6. Connecticut	7	1	4		2	5 districts and 2 at large.
7. Delaware	3		3			3 at large
8. Florida	6	6				4 districts and 2 at large
9. Georgia	14	14				12 districts and 2 at large.
10. Idaho	4	4				4 at large.
11. Illinois	29	3	16		10	25 districts and 4 at large.
12. Indiana	15	8	7			13 districts and 2 at large
13. Iowa	13		13			11 districts and 2 at large
14. Kansas	10	9	1			8 districts and 2 at large.
15. Kentucky	13	11	2			11 districts and 2 at large.
16. Louisiana	10	8			2	8 districts and 2 at large.
17. Maine	6	1	5			4 districts and 2 at large.
18. Maryland	8	4			4	6 districts and 2 at large.
19. Massachusetts	18				18	16 districts and 2 at large.
20. Michigan	15	2	9		4	11 districts and 2 at large.
21. Minnesota	12	3	7		2	10 districts and 2 at large.
22. Mississippi	10	10				8 districts and 2 at large.
23. Missouri	18	14	1		3	16 districts and 2 at large.
24. Montana	4	4				4 at large.
25. Nebraska	8	8				6 districts and 2 at large.
26. Nevada	3	3				3 at large.
27. New Hampshire	4	2			2	2 districts and 2 at large.
28. New Jersey	14		7		7	12 districts and 2 at large.
29. New Mexico	3	3				3 at large.
30. New York	45		16		29	43 districts and 2 at large.
31. North Carolina	12	12				10 districts and 2 at large.
32. North Dakota	5	3	2			3 districts and 2 at large.
33. Ohio	24	16	3		5	22 districts and 2 at large.
34. Oklahoma	10	10				8 districts and 2 at large.
35. Oregon	5	1	4			3 districts and 2 at large.
36. Pennsylvania	38	5	33			32 districts and 6 at large.
37. Rhode Island	5		2		3	3 districts and 2 at large.
38. South Carolina	9	9				7 districts and 2 at large.
39. South Dakota	5	1	4			3 districts and 2 at large.
40. Tennessee	12	10	2			10 districts and 2 at large.
41. Texas	20	20				16 districts and 4 at large.
42. Utah	4	4				2 districts and 2 at large.
43. Vermont	4		4			2 districts and 2 at large.
44. Virginia	12	11	1			10 districts and 2 at large.
45. Washington	7	4	1		2	5 districts and 2 at large.
46. West Virginia	8	1	7			6 districts and 2 at large.
47. Wisconsin	13	1	10		2	11 districts and 2 at large.
48. Wyoming	3	3				3 at large.
Total	531	264	168	0	99	
Actual electoral vote	531	277	254			

Breakdown of vote	Democratic	Republican
11 States of solid South	121	3
5 border States	40	10
9 Northern States having a central city over ½ million	35	98
23 Northern States, nonmetropolitan States	68	57
Total	264	168

Source: Congressional Directory, 63th Cong., 1st sess. (April 1917), pp. 3-121.

HOUSE JOINT RESOLUTION 19, EIGHTY-SECOND CONGRESS, FIRST SESSION

House Joint Resolution 19 provides for three major changes in the present electoral college system. (1) It would abolish presidential electors but retain the electoral votes of each state as at present. That is, each state would continue to have a number of electoral votes equal to the number of Senators and Representatives to which the state is entitled. (2) House Joint Resolution 19 would make a plurality of 40 percent—rather than a majority—of the electoral vote sufficient for election. If no candidate receives 40 percent of the electoral vote, a joint session of Congress shall, by a constitutional majority, elect a President from the two candidates receiving the most electoral votes.

Although a great deal can be said for and against these first two alterations, I shall concentrate my remarks on the third because it is the controversial one.

Third, House Joint Resolution 19 provides for abolition of the general ticket system, by which the presidential candidate with the popular plurality in a State is credited with all of that State's electoral votes. Under the proposal, the electoral votes of each State would be divided among the presidential candidates in exact ratio to their popular vote. These computations are to be carried to three decimal places.

The computations are relatively simple to make. In 1948, for example, Mr. Dewey polled 1,902,197 out of a total of 3,735,080 popular votes in Pennsylvania. First, you must find the percentage of Pennsylvania's vote which Dewey won. This is done by dividing 3,735,080 into 1,902,197. You find that he polled 50.927 percent of the vote in Pennsylvania. Under the formula of House Joint Resolution 19, he would be entitled to 50.927 percent of Pennsylvania's 35 electoral votes. So you simply multiply 35 by 0.50927, and find that he would receive 17,825 electoral votes instead of receiving all 35 as he did under the present system.

Before commenting on this change, I would like to make three qualifications:

(1) My conclusions are based on the premise that the number of popular votes per electoral vote will continue to be smaller in the South than in the North. This is a suffrage problem.

(2) My conclusions are based on the assumption that there will be no realinement of parties involving a union of Republicans and southern Democrats.

(3) I realize that neither the candidates nor the issues would be the same under House Joint Resolution 19. Under the present system, both parties bid for the votes of minority groups in metropolitan areas of pivotal States having large blocs of electoral votes. This would cease to be the case under House Joint Resolution 19.

The disparity between the electoral vote—for example Truman's 49.5 percent of the popular vote and his 57 percent of the electoral vote—is due to three factors. First, the allocation of electoral votes to the States on the basis of congressional representation magnifies the voice of the small States in choosing a President. All of the States have two Senators and hence two electoral votes. Every State is entitled to one Representative and hence to a third electoral vote whether that State has the population requisite for the election of one Representative in the other States or not. In 1948, the nine most populous States having over half of the population cast only 18 of the 96 electoral votes based on representation in the Senate while the other 39 States cast the remaining 78. To say it another way, one electoral vote in California represented 395,040 people, whereas one electoral vote in Nevada stood for 46,667 people.

The second cause for discrepancy between the popular vote and the electoral vote is the assignment of electoral votes to the States without regard to the popular vote. This magnifies the voice of the States in which popular participation is limited. In 1948, for example, one electoral vote in California represented 160,862 popular votes in contrast to one of South Carolina's electoral votes which represented only 17,821 popular votes.

The third cause of variance between the popular vote and the electoral vote is the general ticket system. The strange thing about the whole matter is that, with our present sectional pattern of politics and our 48 different sets of suffrage laws, the general ticket system tends in Republican years to correct the disparity caused by magnifying the electoral power of the States in which the popular vote is small. House Joint Resolution 11 would abolish the general ticket system but it would do nothing to remedy the other two causes of deviation between the popular vote and the electoral vote.

The solution may seem obvious—simply elect the President by a direct vote of the people. The difficulty is that this would require a constitutional amendment. Thirty-six States certainly would not agree to a system which would reduce the electoral power of the small States and force the 11 States of the South to extend the franchise or to give up electoral power. In 1948, for example, if the election had been decided by the Nation-wide popular vote regardless of State lines, 17 States would have had their voice in choosing the President increased and 31 States would have had their voice decreased. Some of these losses would have been substantial.

TABLE I.—*Relative strength by percentages in 1948 election*

State	Under present plan	Under nationwide popular vote			State	Under present plan	Under nationwide popular vote		
		Relative strength	Gain	Loss			Relative strength	Gain	Loss
1. Alabama	2.072	0.442	.....	78.908	26. Nevada	0.865	0.128	.....	77.345
2. Arizona	.769	.364	.....	54.959	27. New Hampshire	.753	.476	.....	36.919
3. Arkansas	1.696	.498	.....	70.619					
4. California	4.708	8.261	75.467	.....	28. New Jersey	3.013	4.005	32.924	.....
5. Colorado	1.130	1.038	.....	6.372	29. New Mexico	.753	.884	.....	49.004
6. Connecticut	1.507	1.797	19.244	.....	30. New York	8.851	12.600	48.374	.....
7. Delaware	.565	.286	.....	49.381	31. North Carolina	2.637	1.625	.....	38.377
8. Florida	1.507	1.187	.....	21.234	32. North Dakota	.753	.453	.....	39.841
9. Georgia	2.260	.860	.....	61.947	33. Ohio	4.708	6.031	28.101	.....
10. Idaho	.753	.441	.....	41.434	34. Oklahoma	1.883	1.482	.....	21.296
11. Illinois	5.273	8.184	55.200	.....	35. Oregon	1.130	1.077	.....	4.690
12. Indiana	2.448	3.402	38.971	.....	36. Pennsylvania	6.591	7.673	16.416	.....
13. Iowa	1.883	2.132	13.224	.....	37. Rhode Island	.753	.670	.....	11.023
14. Kansas	1.507	1.620	7.498	.....	38. South Carolina	1.507	.299	.....	80.157
15. Kentucky	2.072	1.690	.....	18.436	39. South Dakota	.753	.514	.....	31.740
16. Louisiana	1.883	.855	.....	54.594	40. Tennessee	2.260	1.130	.....	50.000
17. Maine	.942	.544	.....	42.251	41. Texas	4.331	2.357	.....	45.578
18. Maryland	1.507	1.226	.....	18.646	42. Utah	.753	.559	.....	24.568
19. Massachusetts	3.013	4.329	43.677	.....	43. Vermont	.565	.253	.....	55.221
20. Michigan	3.578	4.334	21.129	.....	44. Virginia	2.072	.861	.....	58.446
21. Minnesota	2.072	2.490	20.174	.....	45. Washington	1.507	1.849	23.358	.....
22. Mississippi	1.695	.395	.....	76.696	46. West Virginia	1.507	1.538	2.057	.....
23. Missouri	2.825	3.243	14.796	.....	47. Wisconsin	2.260	2.623	16.062	.....
24. Montana	.753	.461	.....	38.778	48. Wyoming	.565	.208	.....	63.186
25. Nebraska	1.130	1.004	.....	11.150					

These figures and the general problem of a national suffrage law have caused advocates of electoral reform to turn to other proposals. House Joint Resolution 19 is one of these.

As long as (1) southern suffrage remains limited and (2) the South remains "solid," House Joint Resolution 19 would operate to the detriment of the Republicans.

In 1880, James A. Garfield won nearly 8,000 more popular votes than General Hancock; but Hancock would have won the Presidency by a margin of 6.8 electoral votes. In 1896, McKinley polled 50.9 percent of the popular votes and Bryan polled 46.8 percent. But McKinley would have lost in the electoral count and Bryan would have had a margin of nearly six electoral votes.

The Presidential contest of 1900 probably would have been a disputed election; and debatable mathematical computations might have given the Presidency to Bryan despite McKinley's popular margin of 861,759, the greatest popular margin of any Presidential candidate up to that time. Actually McKinley polled 51.7 percent of the popular vote in contrast to Bryan's 45.5 percent. According to the calculations of the Legislative Reference Service of the Library of Congress, McKinley would have had a margin of one-tenth of an electoral vote.

Application of some rather elementary statistical methods to the returns for the last 18 elections indicates that the Republican reverses under the formula of House Joint Resolution 19 in 1880, 1896, and 1900 are not isolated and unexplainable cases. A few calculations will show that the plan would operate to the advantage of the Democrats and to the disadvantage of the Republicans as long as the South remains relatively solid and southern suffrage remains limited. The difference between the percent electoral vote under House Joint Resolution 19 and the percent popular vote for the two parties is instructive:

TABLE II

Year	Democratic Party			Republican Party		
	Percent of electoral vote under H. J. Res. 19	Percent of popular vote	Deviation	Percent of electoral vote under H. J. Res. 19	Percent of popular vote	Deviation
1880	49.295	48.223	+1.070	47.453	48.308	−0.855
1884	50.000	48.842	+1.158	47.307	48.215	−.908
1888	50.599	48.658	+1.941	46.334	47.817	−1.483
1892	45.653	46.119	− .466	41.937	43.100	−1.163
1896	49.508	46.824	+2.684	48.106	50.934	−2.768
1900	18.591	45.530	+3.061	48.613	51.699	−3.086
1904	37.605	37.597	+.008	50.408	50.412	− .004
1908	46.977	43.051	+3.926	47.785	51.581	−3.796
1912	45.460	41.821	+4.639	21.450	23.178	−1.728
1916	53.540	49.265	+4.275	41.827	46.058	−4.231
1920	40.038	34.666	+5.372	59.478	61.237	−1.759
1924	36.045	28.828	+7.217	48.738	54.054	−5.316
1928	43.616	40.703	+2.923	51.972	58.110	−3.138
1932	61.695	57.411	+4.284	35.705	39.651	−3.945
1936	61.087	60.194	+3.893	33.070	36.539	−3.469
1940	58.380	53.847	+4.533	40.414	41.770	−1.356
1944	55.499	51.644	+3.855	42.117	45.869	−3.722
1948	49.190	49.363	−.173	41.902	44.988	−3.086

You will notice that in 16 of the 18 elections the Democrats would have received a greater electoral vote under House Joint Resolution 19 than they were entitled to by their percentage of the popular vote. In contrast, the formula would have consistently given the Republicans a smaller electoral vote than they were entitled to by their percentage of the popular vote. The average Democratic deviation for the 18 elections would be plus 3,006, whereas the average Republican deviation would be minus 2,879. In summary, adoption of House Joint Resolution 19 would reduce the opportunity of a Republican to attain the Presidency even with a popular plurality, but would enable a Democrat to gain electoral victory from popular defeat.

There are two conceivable explanations for the Democratic advantage and the Republican disadvantage under House Joint Resolution 19: (1) The magnified electoral power of the small States which results from giving 2 electoral votes to all the States and from giving 1 additional electoral vote to Delaware, Nevada, and Wyoming which often do not have the population required for the election of 1 Representative in the other States; (2) the 11 States of the South where participation in the popular election is small. If the explanation were to be found in the magnified electoral power of the small States, you could expect the Democratic advantage to increase in proportion to the number of States carried by the Democrats under House Joint Resolution 19. Similarly, you could expect the Republican disadvantage to decrease in proportion to the number of States carried. Actually, the rank-difference coefficient of correlation is positive 0.114 for the Democrats and negative 0.063 for the Republicans This correlation is so small that it shows neither a direct nor an inverse proportion between the Democratic advantage or the Republican disadvantage and the number of States carried.

The plan would be a boon to the Democrats and a handicap to the Republicans, because the Democrats could win large blocs of electoral votes in the South, where a relatively few popular votes will capture an electoral vote. In contrast, the Republicans would have to look for the bulk of their electoral votes in the North, where more popular votes are required to win an electoral vote. It will be noticed in table III that the Democratic advantage under House Joint Resolution 19 varies directly with the solidness of the South and/or inversely with southern participation in the popular election.

The "solidness of the South" as measured in table III is an average percentage of the popular vote polled by the Democrats in the 11 States, weighting each State according to its electoral vote. This method must be used, because it makes a great difference, for example, whether the Democrats poll 92 percent of the vote in Florida with 8 electoral votes or in Texas with 23. Of course, the 11 States are Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

The rank-difference coefficient of correlation between the solidness of the South and the Democratic advantage under House Joint Resolution 19 is 0.680.

Popular participation in the South relative to popular participation in the rest of the country as measured in table III is the relation between the percent of the nationwide popular vote polled in the South and the percent of the nationwide electoral vote cast by the South. Popular participation in the South for 1924, for example, was measured as 36.63 percent, which means that, if the election had been determined by the nationwide popular vote, the South would only have had 36.63 percent of the voice she actually had in choosing the President.

The rank-difference coefficient of correlation between the Democratic advantage under House Joint Resolution 19 and popular participation in the South is negative 0.587. The coefficient of multiple correlation between the Democratic advantage under House Joint Resolution 19 and the solidness of the South and popular participation in the South is 0.701.

To put it another way, the more solid the South and the fewer southerners who go to the polls, the more House Joint Resolution 19 will redound to the advantage of the Democrats:

TABLE III

Year	Democratic advantage taken from table II	Solidness of South	Southern popular participation relative to rest of country	Year	Democratic advantage taken from table II	Solidness of South	Southern popular participation relative to rest of country
		Percent	*Percent*			*Percent*	*Percent*
1880	+1.070	59.75	75.74	1916	+4.275	74.73	42.54
1884	+1.158	61.41	73.92	1920	+5.372	67.55	41.22
1888	+1.941	63.45	69.33	1924	+7.217	70.36	36.63
1892	−.466	61.47	70.31	1928	+2.823	57.18	38.62
1896	+2.684	66.33	65.58	1932	+4.284	83.27	40.66
1900	+3.061	66.27	53.76	1936	+3.893	83.07	39.18
1904	+.008	70.33	40.43	1940	+4.533	80.44	40.18
1908	+3.926	68.02	42.88	1944	+3.855	73.66	41.28
1912	+4.639	70.94	43.19	1948	−.173	45.03	43.91

The election of 1928 is a case in point. Southern solidarity was shaken, not because great numbers of Democrats voted Republican, but because they did not vote and allowed the Republicans to win a larger percentage of a small popular vote. If House Joint Resolution 19 had been operative in that election, the Democrats would not have enjoyed as great an advantage as in years when the South is more solid. But Al Smith would actually have enjoyed a small advantage under the formula because the low popular participation in the South partially offset the relative lack of southern solidarity.

The Democrats would have received a smaller percentage of the electoral vote under House Joint Resolution 19 than they were entitled to by their percentage of the popular vote only in 1892, when the Populists won a sizable portion of a relatively large popular vote in the South, and in 1948, when the States rights Democrats invaded the South. To be honest, one must admit that the Democratic disadvantage in 1892 cannot be attributed entirely to the relatively heavy popular vote in the South and the relative lack of southern solidarity. The Populist invasion of Democratic strength in the small Western States was also an important factor. For example, the Democrats polled no popular votes at all in Colorado, North Dakota, and Wyoming. They received exactly two votes in Idaho, and won only 39.7 percent in Montana, 6.6 percent in Nevada, 18.1 percent in Oregon, 12.9 percent in South Dakota, and 33.8 percent in Washington. This in turn means that the Democrats were—and under House Joint Resolution 19 would be—denied the advantages of overrepresentation of the small States in the electoral college. Despite this factor in the election of 1892, the fact still remains that the South is the principal reason why House Joint Resolution 19 would favor the Democrats over the Republicans.

To buttress this conclusion, one should look at the deviation between the percent electoral vote under the formula and the percent popular vote for an era when there was no "solid South" with its limited popular participation:

TABLE IV

Year	Democratic Party			Republican Party		
	Percent of electoral vote under H. J. Res. 19	Percent of popular vote	Deviation	Percent of electoral vote under H. J. Res. 19	Percent of popular vote	Deviation
1864	44.292	44.940	−0.648	55.708	55.060	+0.648
1868	45.986	47.332	−1.343	54.014	52.668	+1.346
1872	43.470	43.823	−.353	56.011	55.621	+.390
1876	50.976	50.933	+.043	47.995	47.951	+.044

As you know, the South did not participate in the election of 1864 and took part in the other three elections in only a limited way. In 1868, 1872, and 1876, the carpetbaggers enforced a Democratic-Republican two-party system of a sort. And what would have been the outcome under House Joint Resolution 19? The average deviation for the Republicans would have been plus 0.607; and the average Democratic deviation would have been minus 0.576. You will note that in both cases the deviation would have been extremely small.

The reason for these deviations can be seen even in the election returns for 1948—an election in which the South was not so solid. In the 11 States of the South 1 electoral vote stood for only 40,260 popular votes. Although Democratic strength in the South was decreased, Republican gains were not great. The principal beneficiary of President Truman's losses was J. Strom Thurmond, who carried States in which the popular vote was small. Actually Mr. Thurmond won an electoral vote for every 29,982 popular votes. In spite of Mr. Truman's reverses in the South, he still would have won 57.18 electoral votes under House Joint Resolution 19, and Mr. Dewey would have received only 30.35, which would mean that Mr. Truman would have had a Southern lead of 26.83 electoral votes. This lead represented a popular margin of 1,194,700. Mr. Dewey would have had to overcome this Southern lead by winning 26.83 electoral votes in the other 37 States, where an electoral vote represented 107,840 popular votes. To do this Mr. Dewey would have had to poll a popular margin in the North of approximately 2,893,347. This necessary popular margin would vary slightly, of course, depending on Dewey's success in the small States in relation to his success in the large States.

When the South is more solid than it was in 1948, the Republican handicap under House Joint Resolution 19 would be a great deal greater. In 1932, for example, if House Joint Resolution 19 had been effective, if the total vote had remained at 39,005,434 and if the distribution of the popular vote between the two parties in each of the 11 Southern States had remained the same, Hoover could not have won the election without a popular margin of approximately 5,417,870. That year each electoral vote in the South represented 30,381 popular votes, in contrast to the other 37 States where each electoral vote represented 88,365 popular votes. Under House Joint Resolution 19, Roosevelt's Southern plurality would have given him 103.26 electoral votes to Hoover's 19.87. Thus Roosevelt's Southern electoral vote margin would have been 83.39. In order to win 83.39 electoral votes outside the South to offset Roosevelt's Southern margin, Hoover would have had to poll a plurality in the North of approximately 7,668,757, or an over-all North-South plurality of 5,417,870. To put it another way, Hoover could have won a popular plurality of more than 5,000,000 and been defeated in the electoral count.

Similarly, the Republicans would suffer a great handicap under House Joint Resolution 19 in those elections in which relatively few Southerners go to the polls. In 1924, for example, 1 electoral vote in the South represented only 20,021 popular votes, while an electoral vote in the other States stood for 65,431

popular votes. John W. Davis, the Democratic candidate, won a popular margin in the South of 985,077. Under the formula of House Joint Resolution 19, Davis would have received 88,058 and Coolidge would have received 31,092 of the South's 126 electoral votes. This means that Davis would have been 57,566 electoral votes ahead in the South. In order to win 57,566 electoral votes outside the South to offset Davis' Southern lead, Coolidge would have had to poll a Northern plurality of 3,766,601, or an over-all North-South plurality of approximately 2,781,524. You will realize how large this necessary margin would have been when you recall that the total popular vote in the entire United States was only slightly more than 29,000,000.

It may be argued that it is difficult to understand how the plan would harm the Republican Party since House Joint Resolution 19 would have given Mr. Dewey more votes than he actually received in 1948. Of course, the formula would have given the Republican candidate more electoral votes in 1884, 1892, 1912, 1932, 1936, 1940, and 1944. As a matter of fact, the same can be said for the formula in relation to the Democratic candidate in those elections which the Democrats lost. The significant point is not that the formula would enlarge the electoral vote of the party which would lose the election in any case. The significant statistics are those which show that the formula would enlarge the Democrats' electoral votes to the point where the Democrats would win in the electoral count although they trailed in the popular vote. The real question is how that formula would affect the electoral vote of the party that won the popular election. As has been demonstrated, the formula would endanger a Republican electoral victory in years when the Republican Party actually won in the popular election.

Objection may also be raised to application of the formula to the figures for past elections, on the ground that adoption of the plan would change the voting habits of the American people. Specifically, it has been stated that a Republican-Democratic two-party system would arise in the South. Furthermore, it has been argued that more Southerners would participate in the popular election because the votes of Southern Republicans would no longer be futile and the votes of Southern Democrats would no longer be superfluous. Of course, the future is imponderable. In the event of a major party realinement along the lines suggested by Senator Mundt, this prediction may be correct. Without such a realinement, the prediction would probably prove to be false.

A great deal is said about the high popular participation in Southern primaries where the voter's ballot really counts. But even if you compare the primary vote in the South to the general election vote in the North, the number of Southerners exercising the franchise is relatively low. As a matter of fact, in the South as a whole more Southerners usually turn out for a Presidential election than for the biggest primaries.

TABLE V

State	Total votes for single office receiving highest statewide vote in 1942 primaries		Total vote for presidential electors	
			1940	1944
Alabama	Governor	279,454	294,219	244,743
Arkansas	Attorney general	228,414	200,743	212,054
Florida	United States Representative	258,668	485,492	482,592
Georgia	Governor	301,686	312,539	328,111
Louisiana	United States Senator	321,041	372,305	349,383
Mississippi	do	133,449	176,824	180,080
North Carolina	do	327,755	822,645	700,854
South Carolina	do	231,942	99,330	103,375
Tennessee	Governor	297,197	522,823	510,792
Texas	United States Senator	983,512	1,041,168	1,150,330
Virginia	United States Representative	41,318	346,607	388,485
Total		3,400,436	4,674,198	4,741,399

Source: Statistical Abstract of the United States, 1943, pp. 234, 237; ibid., 1944–45, pp. 251, 257.

In the absence of the major party realinement mentioned above, exactly where would Republican votes come from in the South? The lack of Republican strength in the South has been remarkably uniform since the end of reconstruction. Historical, social, economic, and political factors will be more important than mere electoral reform in determining Republican strength in the South.

The first possible source of Republican strength in the South is the uncertain number of disfranchised. Exactly how many Republicans are there in southern legislatures to enlarge the electorate? The fact of the matter is that Republican popularity among the Negroes and so-called poor whites would be a real incentive for southern Democratic legislatures to tighten suffrage qualifications. If history can be taken as any guide, one should remember that the South met the Populist threat with a program of systematic disfranchisement through understanding tests and cumulative poll taxes.

The second possible source of Republican strength in the South is among those who disfranchise themselves simply by not bothering to vote. Without the major party realinement previously mentioned, if the Republicans were to win any significant number of votes among southern conservatives, it would have to revise its traditional policies on civil rights in relation to racial questions. To do this would probably lose it more liberal and Negro support all over the country than the party could ever make up for among southern conservatives. Appeal to southern Negroes and liberals would alienate those southerners who make the suffrage laws and to whom Republican economic and fiscal policy is most likely to appeal.

During the hearings on a similar resolution in the last Congress, several southern Senators said that adoption of Mr. Gossett's plan would not enlarge the Republicans' percentage of the total vote polled in the South. If this prophecy should prove correct and if southern suffrage should remain limited, restricted suffrage in the South would become a matter of vital importance to the Republican Party. This, in turn might very well raise the question of a national suffrage law and enforcement of section 2 of the fourteenth amendment.

Southern newspapers have frankly stated that one purpose of the amendment is to make it unnecessary for the Democratic Party to bid for votes among minority groups in northern cities and would thereby increase the voice of the South in the Democratic Party. If this proved to be correct, there are two major possibilities:

(1) This might put the South in a position to mold the Democratic Party more to its own liking, a contingency in which Senator Mundt's proposal would have less appeal to the South.

(2) A more conservative Democratic Party might lose considerable northern support. This northern support might go to a third party. On the other hand, the Republicans might bid for this northern support, a contingency which would likely strengthen the voice of liberal elements within the Republican Party.

Without a major party realinement along the lines suggested by Senator Mundt, adoption of House Joint Resolution 19 would likely mean that, in years when the Republican presidential candidate can win enough popular support outside the South to give him a national plurality in the popular election, he would trade large blocs of electoral votes in the North for insignificant numbers in the South. This in turn would mean that he would have to roll up enormous popular pluralities outside the South in order to win the presidency, a situation which would make it more necessary for the Republicans to bid for the metropolitan vote in the North than would be the case under House Joint Resolution 11.

It has been argued that this point of view is much ado about nothing because the South is not so solid any more. But what are the facts? As shown in table III, actually the trend has been toward greater southern solidarity except in 1928 and 1948. In the first case, the relative lack of southern solidarity was due to southern Democrats' staying away from the polls rather than due to any significant Republican gains in the South. The breakdown of southern solidarity in 1948 resulted largely from States Rights success rather than from Republican success in that area.

Certainly the operation of a States Rights-Democratic two-party system in the South would not make House Joint Resolution 19 an equitable system. A States Rights Party might be able to gain sufficient popular support in the South to deny the Democrats the advantage they would otherwise enjoy under House Joint Resolution 19. But the Republicans would not be freed from the disadvantages they would suffer under the formula, because they would not receive any significant number of southern electoral votes, which can be won by so few popular votes. The only thing a southern third party could do to equalize the presidential race between the Republicans and the Democrats would be to gain enough southern support to put the Democrats and the Republicans at the same disadvantage

under House Joint Resolution 19. Such a development is not likely, nor would it be desirable from the standpoint of our two-party system. For House Joint Resolution 19 to work equitably, one of two conditions—or both—must be present:

(1) There must be a Republican-Democratic two-party system in the South; and/or

(2) A southern electoral vote must represent roughly the same number of popular votes as is represented by a northern electoral vote.

HOUSE OF REPRESENTATIVES,
Washington, D. C., October 28, 1953.

Hon. WILLIAM LANGER,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: I shall appreciate it if the enclosed article entitled, "The Ideal Method of Selecting the President of the United States," may be included in the record of your committee hearings on electoral college reform.

Very faithfully yours,

F. R. COUDERT, Jr.

THE IDEAL METHOD OF SELECTING THE PRESIDENT OF THE UNITED STATES[1]

(By Frederic R. Coudert, Jr.[2])

There can be few more fascinating subjects for consideration than the *ideal* method of *selecting* the President of the *United States*, without regard for any purely practical situations. There is, of course, an ideal way of selecting the President. That is the basis of a proposed amendment to the Constitution of the United States, which I first introduced in the House of Representatives in March, 1949, and in each succeeding Congress. It is sponsored in the Senate by Senator Karl Mundt of South Dakota.

The *ideal* is the archetype, the most perfect in all of the circumstances concerned. It is not mere fancy, or imagery, rooted in the gossamer of illusion, or in wishful-thinking. Rather, the ideal is rooted firmly in the rich soil of the Wisdom of the Ages, which has nourished all of the earthly blessings men have been able to earn for themselves.

Selecting the President, in the context of the subject, and for this article, means the steps of nominating and of electing the President.

In particular, the office of President of the United States, developed out of our own political heritage, is rooted in the heritage of ideas, principles and practices that came to culmination in the Constitution. It is no reflection on the Founding Fathers, the authors of the Constitution, to say that they merely re-arranged familiar things in a new light. The new light was their genius; and true genius was required to take the familiar things apart, re-erect them on a new foundation and, at the same time, build a structure at once so perfectly proportioned and balanced that, in a half-dozen generations, their handiwork grew into the most powerful Nation mankind has known. The Founding Fathers were political *architects* and *builders*. But they did not make the material with which they worked. They did understand it.

In this light, to consider the ideal way of selecting the President is, indeed, a fascinating undertaking.

To begin at the beginning, we must consider, in proper perspective, "all of the circumstances concerned" out of which the ideal method of selecting the President will naturally flow. This involves a brief description of the American Political System, a brief outline of its origins and development, the place of the office of President in the larger scheme, and some comments on the party system. From this the ideal way of selecting the President of the United States will stand out in bold relief.

At the outset, let us exclude, as inapplicable to the subject, the concepts, principles and practices of those European political systems founded on the Roman Law. For, as Roscoe Pound, then Dean of the Harvard Law School, observed in his introduction to *Americans on Guard:*

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[1] Prepared for *Selecting the President: The Twenty-Seventh Discussion and Debate Manual.* Copyright 1923. All rights reserved.

[2] The Honorable Frederic R. Coudert, Jr., is Member of Congress from the 17th District of New York. The article here presented was written in response to the editor's invitation for Mr. Coudert to address himself to the question, "Neglecting all purely practical considerations, what would be the ideal method of selecting the President of the United States?"

"There are two traditions of adjusting relations and ordering conduct in the World of today, the Roman and the English. . . . The one is solicitous for efficiency of official action and subordinates thereto the securing of individual interest. The other is solicitous for the individual and imposes checks and limitations upon officials to safeguard individual interests. . . .

"It is no accident that where one tradition obtains there are autocracies while in the domain of the other there are democracies. Nor is it an accident that the great English-speaking lands, deriving their political ideas from England, are federally organized. *A federal polity cannot be an autocracy.* . . .

"We inherited the idea of government according to law from the struggle between courts and crown which established the supremacy of the law against the Stuart Kings. . . . Thus far our whole political and legal development has conformed to it. . . .

"Today ideas of public law imported from Continental Europe are being taught and urged against our American legal-constitutional polity . . . We are told that the separation of powers . . . are not more than an eighteenth-century political fashion . . . In the rise of absolutism throughout the World, we, too, show signs of becoming infected.[3]" [Emphasis supplied.]

The American Political System is *unique* among all others in history. In part, it may be likened to a *Tree of Liberty*—root, trunk and branch, blossom and fruit. The fruits are the Blessings of Liberty and the roots are the People of the *United States*. Equally important—perhaps more important is the soil into which the roots are sunk. For this soil is the body of ideas fundamental to the very existence of American institutions and their upholding traditions.

The Constitution of the United States is the capstone of the American Political System. It is the instrument by which the people in the States created a government for the *United* States, deriving its *just* powers from the consent of the governed. Its primary purpose is the protection of personal *Liberty*,[4] the sum total of human rights—from the beginning to the end. No other government was ever formally dedicated to this purpose.

The political structure or form of government in the *United* States can be described as a limited dual-sovereignty in a federal-union of States, with a separation therein of the delegated powers of sovereignty, Executive, Legislative and Judicial. Here it should be noted that while the powers delegated to governments by the people are sovereign powers, the whole sovereign power of the people is not delegated. They have kept for themselves full sovereignty in the moral realm of personal Liberty.

Sovereignty is the power to declare, and enforce, the law. In unitary governments, like those of Continental Europe, which are founded in the Roman Law, there is only one sovereign government in a country and its sovereignty is complete, unlimited, and undivided. It is very easy to see and to understand. The legislative body is *the* sovereign. It chooses the executives (cabinet) from its own membership; and courts are administrative rather than independent judicial bodies. In practice, European governments exercise the powers of sovereignty to declare the law *in advance*, as a guide to human conduct (legislative); *administratively*, in the daily conduct of the public business (executive); and in cases in court (judicial). For these are the functions of government, *to the extent of the objects of government*. With them the objects of government are all-inclusive, extending to every person and every thing. As I said above, such a governmental structure is easy to comprehend. The legislative power is dominant; and it derives its authority (office) from the voters.

Against the stark simplicity of the structure of European governments, the structure of our Federal Government is somewhat complex. Let me offer an extract from *The Federalist No. 39* by James Madison.[5] Madison was describing the elements of the new government proposed in the Constitution, then under consideration; and in the very terms used by the anti-Federalists in their campaign of opposition. It is most helpful in understanding the *ideal* way of electing the President. Madison wrote:

"In order to ascertain the real character of the government, it may be considered in relation to the foundations on which it is to be established; to the sources from which its ordinary powers are to be drawn; to the operation of those powers, to the extent of them; and to the authority by which future changes in the government are to be introduced. [Constitutional amendments.]

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[3] Americans on Guard, by O. R. McGuire, A. M., S. J. D., LL. D. (Washington, D. C.: American Good Government Society, 1943).

[4] Liberty, as seen here, is endowed by God in His creation of man and thus is within the realm of the moral law. The field of license is outside the moral realm. *Liberty* is used exclusively in both the Declaration of Independence and the Constitution.

[5] *The Federalist*, Modern Library Edition (New York: Random House).

". . . the Constitution is to be founded on the assent and ratification of the people. . . . Not as individuals composing one entire nation, but as composing the independent States to which they belong. . . . The act, therefore, establishing the Constitution will not be a *national*, but a *federal* act . . . it is to result neither from a *majority* of the people of the Union, nor from that of a *majority* of the States. It must result from the *unanimous* assent of the several states that are parties to it. Were the people regarded in this transaction as forming one nation, the will of the majority of the whole people of the United States would bind the minority. . . . Each State, in ratifying the Constitution, is considered as a sovereign body. . . . In this relation, then, the new Constitution will, if established, be a *federal*, and not a *national* constitution.

". . . The House of Representatives will derive its powers from the people of America; and the people will be represented in the same proportion, and on the same principle, as they are in the legislature of a particular State. So far the government is *national*, not *federal*. The Senate, on the other hand will derive its powers from the States, as political and coequal societies; and these will be represented on the principle of equality in the Senate, as they now are in the existing Congress. So far the government is *federal*, not *national*. The executive power will be derived from a very compound source. The immediate election of the President (by Electors) is to be made by the States in their political characters. The votes allotted to them are in a compound ratio, which considers them partly as distinct coequal societies, partly as unequal members of the same society. From this aspect of the government, it appears to be of a mixed character, presenting at least as many *federal* as *national* features.

". . . as it relates to the *operation of government* . . . the Constitution . . . falls under the *national*, not the *federal* character . . . the operation of the government on the people, in their individual capacities, in its ordinary and most essential proceedings, may, on the whole, designate it, in this relation, a *national* government.

". . . it changes its aspect again . . . in relation to the extent of its powers. The idea of a national government involves in it . . . an indefinite supremacy over all persons and things, so far as they are objects of lawful government. Among a people consolidated into one nation, this supremacy is completely vested in the national legislature. . . . In this relation, then, the proposed government cannot be deemed a *national* one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects. . . ."

If the sole basis of choice between a *complex Federal* government and a *simple unitary national* government were simplicity and ease of understanding, the thoughtless would always choose the simpler one. Fortunately, the less thoughtful make their choice on the basis of results. On this basis, the Blessings of Liberty, under our seemingly complex governmental system, have so far exceeded the promises—even the hopes—of the Founding Fathers, that there can be but few, even today, who would consolidate us into one government, and reduce the State governments to the status of provincial satrapies. If this, then, is to be the choice, the ideal way of *selecting* the President is beginning to take shape. It must fit in with, and be in balance with, the different parts of our complex *federal-national* system.

Before advancing that thought farther at this point, let us go back to the roots of the ideas and the practices that came to fulfillment in the Constitution of the United States, the materials with which the Founding Fathers built such a remarkable political edifice.

Here we meet two views. The first one is that the thirteen Colonies rebelled, threw out King George III's royal governors, voluntarily came together in the Continental Congress as sovereign states, won the War of Independence, perfected the Union by adoption of the Constitution, and went on from then to now. This is an heroic view and, in the main, is true. However, in Law, especially in the Law of Nations, there is a different picture.

The Colonial governments in rebellion were *de facto* (of fact) governments but not governments *de jure* (of law). The War of Independence was not concluded with the surrender of Lord Cornwallis at Yorktown. It was concluded by the Treaty of Paris in 1783, by which King George III of Great Britain transferred his lawful rights in and over the thirteen colonies in North America to the Thirteen States of the *United* States of America. The Treaty of Paris made the thirteen *de facto* governments into thirteen governments *de jure*.

Article 1st of the Treaty of Paris reads:

"His Britannic Majesty acknowledges the United States, viz. New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New

York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia, to be free sovereign and independent states; that he treats them as such; and for himself, his heirs and successors relinquishes all claims to the government, proprietary and territorial rights of same, and every part thereof. . . ."

But where did the King of England get his rights to govern the Colonies? The answer in part is that the colonists came to North America under the sponsorship of the English Kings, brought English Law and political ideas with them, and settled on land which had been claimed for England. That is the legitimate aspect of the business. The newcomers were not immigrants, in that they had to make no change in sovereign allegiance, but were settlers or colonists, expanding the realm of their sovereign.

The English Kings reigned under the monarchical principle, which, at the time of the separation of the Colonies from Great Britain, had developed into a hereditary right of the eldest son, the Crown Prince, to succeed to the throne. In a much closer way than many might admit, the title of king may be compared to the Constitutional powers of the office of President of the United States.

In the early Middle Ages, beginning with the Fifth Century, the monarchical principles among the Germanic peoples meant that the kinright of families made the members eligible for election as king. Once elected, the king had a divine right to rule. He had the divine sanction by his birth and the peoples' sanction by election. Much, much later this hereditary right to be among those eligible for election to kingship became a hereditary right of a son to succeed. But this did not increase the powers of the king. For the king was under the law.

The purpose of this brief inquiry is to show that the Chief Executives, in our earliest heritage, more than fifteen centuries ago, were beneath the Law. What follows is from a magnificent work of Professor Fritz Kern, *Kingship and Law In the Middle Ages.*[4] This work was translated from the German by Professor S. B. Chrimes, of the University of Glasgow, who also contributed an Introduction.

Professor Chrimes says, "We are encouraged to believe that the origins and foundations of our (English) Constitution were as peculiar to England as its later developments, which is not the case." (p. xiii)

The fuller view, which unfolds the relation of the powers of Germanic kings in the Middle Ages with those of our President in the Twentieth Century, is stated thus, by Professor Kern:

"A. The rights of the monarchy were derived not only from the king's independent, hereditary and divinely endowed title, but also from an act of the community—from kin-right and consecration on the one hand, and from popular election on the other.

"B. The monarch is above the community, but the law is above the monarch. In the language of the Germanic peoples, this means that, although the promulgation and enforcement of the law belongs to the king, the declaration of what the law is belongs to the community. . . .

"C. If the theoretical limits of autocracy are clearly defined in this way, it is none the less true that the sovereignty of the people is excluded. The people participate in the appointment of the king, but the monarch's power is not simply a mandate conferred on him by the community. The people share in making the law, which is above the king . . . whilst from the standpoint of Germanic law, the people lack the essential constituent of sovereign power to enforce the law. . . . Neither the rule of a monarch whose powers were limited by law, nor the active legislative cooperation of the community . . . was regarded as sovereign in the modern sense. Sovereignty, if it existed at all, ruled over both king and community."

The law which the Germanic kings promulgated and enforced existed long before they came to power, for ". . . medieval law must be 'old' law and must be 'good' law. . . . If law were not old and good law, it was not law at all, even though it were formally enacted by the State." Today, we would call such a law "unconstitutional."

But to go on with the medieval thought: "The fundamental idea remains the same: the old law is the true law. According to medieval ideas, therefore, the enactment of new law is not possible at all; and all legislation and legal reform is conceived of as the restoration of the good old law which has been violated." . . .

[4] Kingship and Law, by Fritz Kern, professor in the University of Bonn. (Oxford, England: Basil Blackwell).

Right and law are restored as they had been in the good old days of King Eric (in Sweden), of Edward the Confessor (in Anglo-Norman England), of Charles the Great (among the French and Germans, or of some mythical law-giver."

There were three degrees of popular participation in the medieval monarchies of the Germanic peoples: "The first is tacit consent, here the king acts formally alone, and so 'absolutely' in form but not in substance. The second degree is advice and consent; the third the judicial verdict."

With us, the President acts "formally and alone" in executing the powers of his office; he acts with the "advice and consent" of the Senate in making appointments and in ratifying treaties. But our independent courts render the judicial verdict. All of these are functions of the delegated sovereign powers of the Constitution.

During the Sixteenth Century, Roman Law was "received" in the Germanic countries of continental Europe as the basic law of the land and gave strength to the doctrine of Divine Right of Kings and of "absolutism." Now that the kings have departed, these political ideas are the basis of the totalitarian state. Roman Law was not "received" in England. English lawyers and judges were able to withstand the invasion and keep their kings under the law.

The "old and good law" above is with us today as the "common law," unwritten but vital. It was brought to England by the Anglo-Saxons and brought to North America by English colonists, where it became the basis of the Constitution of the United States. With us, the functions of declaring the law and enforcing the law have been divided—as to objects—between the States and the Federal Government; and in each they have been sub-divided with appropriate powers among the Executive Legislative and Judicial functions of declaring the law.

Although we have separated the Executive and Legislative powers (functions), they are closely related; for the President shares the Legislative Power to the extent of one-sixth of the Senators and one-sixth of the Representatives, when he disapproves an act of Congress. In fact, for a harmonious relationship, the Executive and the Legislative Powers should have the same political roots, the same base, the same constituency, as was intended when the Founding Fathers, in order to separate the Executive and Legislative Powers at the source, removed the election of the President from a joint session of the Senate and House of Representatives and lodged it in a body of Electors that was the *exact counterpart* of a joint session of the Congress.

My discussion of law and the ancient powers of the king to declare and enforce it is merely to show that these functions of sovereignty are naturally divisible and ought to be separated as we have separated them. And, also, to show that they they are closely related and should derive their power of exercise, election to office, in exactly the same manner. This requires a closer relationship between the election of the President, through Presidential Electors, and the election of the whole Congress.

United States Senators are elected statewide, two in each State; the "Senatorial" Electors are and should be elected in exactly the same way. As for the 435 Electors, which correspond to the 435 members of the House of Representatives, they should be elected in Congressional Districts, or constituencies. This minor change from the present practice of statewide, *en bloc* election, would bring about the ideal way of electing the President of the United States.

If the "Representative" Electors are to continue to be elected statewide, as they now are, we should bring the elective basis of the Congress into alignment with that of the White House and elect all of each State's Representatives at-large, or statewide, as Senators are elected. For here balance is essential to the ideal, because of the formal separation of two distinctly separate but intimately related functions in the declaration of the law.

The powers of the many established elective offices under the United States and the States have long been fixed. But, overwhelmingly, the persons who fill these offices come to them through the mill of politics, which is as it should be. For, politics is the noblest calling of mankind, even though many active participants do not quite measure up to the standard:

"To gain power, to keep it, and to govern—these are the special business of a politician, just as it is a working bee's business to make honeycomb and honey. But we are entitled to ask—how did he gain power? how did he keep it? what did he do with it when he had it? And the answers to these questions are always mixed up with morals."[1]

Our party system is one of legally organized parties in the States and under State law. While our so-called national parties are lawful, they are *extra*-legal,

[1] Frederick Scott Oliver, *The Endless Adventure* (London: MacMillan and Co., Ltd., 1931), pp. 31-32.

in that they are not provided for by Federal law. National party conventions are but the coming together, under rules of their own making, of delegates from the legally constituted state parties. The State delegations, chosen in the States in a variety of ways, are based numerically on the representation of the States in Congress, with bonuses for party achievement, and penalties for singular failure to achieve, in the most recent election.

The power of these state delegations in the conventions are not very closely related to the numbers of delegates involved, but to the political conditions in the respective States. The thing to be done is to nominate candidates for President who can be elected. Nothing is more natural than that the convention delegates from the large, *doubtful* and *pivotal* States should have the decisive voice as to the candidate most likely to carry those States. And, remember that there is *doubt* that any candidate other than their choice can carry a State, a State so necessary to party success than defeat is certain if it is lost. Such a State is the *pivot* on which turns the election of the President of the United States.

My own State of New York is such a State in the Republican scheme of things. No Republican President has been elected without its electoral vote. Of its importance in the national conventions of both parties, the late Charles D. Hilles, who served as a New York member of the Republican National Committee for twenty years, and who moved in the inner circle of the party leadership for even more years, could speak with authority based on experience. Mr. Hilles has said:

"New York's power in political conventions, and therefore over the White House, comes not from the size of its delegations in the party National Conventions, which are roughly ten per cent in both instances. *New York's power comes from the fact that its delegations represent 47 (now 45) electoral votes, or nearly twenty per cent of the total number needed to elect a President.* It is this little understood fact that accounts for the almost invariable selection of Presidential nominees from New York or some other large state in sympathy with New York's political attitudes. But New York decides even that." [Emphasis supplied].

A proposed Constitutional Amendment to require that Electors of the President and Vice President be elected in the same manner as their counterparts in the Congress (Senators and Representatives) is pending in the Congress. Senator Karl Mundt of South Dakota is sponsoring it in the Senate and I am sponsoring it in the House. Its effect, if adopted, will be to divide each State's weight in selecting the President on exactly the same political basis as it is now divided in the selection of the members of Congress. Again, the political base of the Executive Power would be the same as the political base of the Legislative Power.

A secondary effect, but equally important, would be on the conduct of party nominating conventions. No longer would there be *large, doubtful* and *pivotal* States. All states would be equal with respect to their two "Senatorial" Electors; and the "Representative" Electors would be divisible among the parties according to their strength in the Congressional Districts.

Not only does the Mundt-Coudert Amendment provide an *ideal* method of *selecting* the President, it restores political balance between the White House and the Congress; and it is both simple and practical. There is no novel idea or principle in it that might unbalance our Constitutional system. It is electoral reform in the best sense, a mere rearrangement of familiar things.

The CHAIRMAN. We will recess, subject to call.

(Whereupon, at 5:30 p. m., the hearing was recessed, subject to the call of the Chair.)

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